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FEDERAL-PROVINCIAL CONFERENCE OF FIRST MINISTERS
ON ABORIGINAL CONSTITUTIONAL MATTERS

CONFERENCE FEDERALE-PROVINCIALE DES PREMIERS MINISTRES
SUR LES QUESTIONS CONSTITUTIONNELLES
INTERESSANT LES AUTOCHTONES

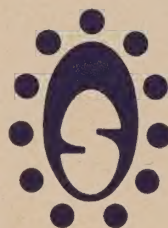
VERBATIM TRANSCRIPT

COMPTE RENDU TEXTUEL

(unverified and unofficial)

(non révisé et non officiel)

Ottawa
March 15-16, 1983



Ottawa
les 15 et 16 mars 1983



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Prepared by the

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FIRST MINISTERS' CONFERENCE
ON
ABORIGINAL CONSTITUTIONAL MATTERS

CONFERENCE DES PREMIERS MINISTRES
SUR LES QUESTIONS
CONSTITUTIONNELLES INTERESSANT LES AUTOCHTONES

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Morning Session
March 15, 1983

COMPTE RENDU TEXTUEL

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Séance du matin
du 15 mars 1983

OTTAWA
March 15-16, 1983

OTTAWA
les 15 et 16 mars 1983

Ottawa, Ontario

9:30 a.m./9 h.30

THE CHAIRMAN (RT. HON. PIERRE ELLIOTT TRUDEAU):

Would the press regain their places please? I think the representatives of the aboriginal peoples are here and all the premiers. Mesdames et messieurs, welcome. In order to call this meeting to order, I understand some of the elders from the Indian nations I understand they wish to say a prayer. If it is agreeable, we will begin by giving them the floor.

CHIEF DAVID AHENAKEW: As chief of the Blackfoot Reserve, I would like to call upon one of our elders to open the meeting with our traditional Indian prayer and also I would like to call on another elder from the Began Reserve to open with the traditional Indian chant. First of all, I would like to call on Jim Minibear from the Blackfoot Reserve to open the meeting with a prayer.

--- Prayer

THE CHAIRMAN: Does anyone else want to say a prayer?

--- Prayer

THE CHAIRMAN: Order please. It is my privilege to welcome you all to this historic conference. It is certainly fitting that the first time we meet to consider amendment to the Canadian constitution, we do it in order to begin to define the rights of our aboriginal people.

As you know, we are here because Section 37 of the Canadian constitution has asked us to meet, and I was asked as Prime Minister to invite representatives of the Indian, Inuit and Metis people to participate in discussions on this item. So, I determined that representatives of the Assembly of First Nations, of the Inuit Tapirisat of Canada and of the Native Council of Canada should sit here and be invited under Section 37

of the constitution, but in recent months it had become evident that the Metis people in great majority felt that they were not properly represented under the Native Council of Canada, and for that reason, I invited a representative of the Metis people to sit with us this morning, a representative of the Metis National Council.

I would just want to say that we are all happy to welcome these representatives. I hope that in the future we will be able to avoid the multiplication of spokesmen for each of the aboriginal groups, but certainly it is not my purpose or intention to judge on the events which led us to have four spokesmen at the table rather than three.

In accordance with the usual practice, I suggest that we have a verbatim transcript made of our public meeting and if there are any meetings to be held in camera, we will then decide what record we want to have kept of them.

There are a couple of announcements relative to administrative matters.

D'abord, je voudrais inviter les membres de toutes les délégations et les représentations des médias à une réception qui aura lieu ici à la fin de la journée. Deuxièmement, je crois qu'il serait sage de demander, et ici je m'adresse aux premiers ministres provinciaux, de demander à nos ministres et à des représentants des peuples aboriginaux de prévoir une rencontre dans la soirée, peut-être à 8 h 00, une rencontre qui aura certainement à étudier les différents documents qui seront présentés au cours de la journée et il s'agira de réunir sous la présidence du ministre MacGuigan les groupes qui se sont réunis deux fois, je crois, dans les séances préparatoires et comme la chambre de la réunion ne peut contenir qu'une quatre-vingtaine de personnes, nous demanderions aux délégations de limiter leur présence à cinq personnes.

The agenda is the one that was received after a consensus formed between the aboriginal groups, but before we reach it, I would plan to have a round of opening Statements which I will lead off and then call on each of the representatives of the aboriginal groups and then I will hear from the various premiers in the usual order. I have expressed the hope that these opening statements would not take us too late into the day and for that purpose, I encourage some of you who had long statements, which was my case, to table those statements and to read shorter versions of them. I have done that and I will ensure that my longer statement will be distributed with the conference documents.

So, then, as agreed, I will begin the series of opening addresses.

Today we reach a significant landmark in our restless search for ways to bring the Canadian constitution into concord with the realities which face our country, our governments and our peoples, in these troubled times and for the decades that lie ahead. Our meeting marks a fresh start in the pursuit of the joint purposes we set in motion last year. We are finally dealing for the first time with a constitution which is our own, close now to all Canadians, to the many peoples and ethnic groups who make their home in this broad land. We are dealing with a constitution which still needs to define the place of our aboriginal peoples in Canadian society.

You will find among the conference documents as I just said a detailed statement of my views on the subject before us. In this opening address I will focus on a few critical issues that lie at the heart of our discussions here and in the on-going process I hope we shall agree upon.

I want to begin by emphasizing that the agenda developed in the preparatory phase is one that representatives of the aboriginal peoples have recommended to us. It is an agenda for long and arduous work. It cannot be covered in two days nor perhaps in two years and so I hope that our discussions here can concentrate on a few key issues. This does not mean that we are forgetting or setting aside other matters that are of great concern to the Indian, Inuit and Metis people.

My longer statement has quite a lot to say about the need for plain talk in these discussions and I emphasize this at the outset, because we must all share the blame for the misunderstandings, distrusts and resentment that have bedeviled our efforts in the past whenever we sought to consider the rights and other concerns of aboriginal peoples.

By plain talk I do not mean fault-finding or name-calling inside this room or away from it, but frank and open discussions of the difficult subjects before us with an emphasis on workable solutions and a willingness to look at new ideas from whatever quarter they come.

What are the main issues? We could begin with land questions. Land we know is essential to the spiritual life, the culture and the very survival of the aboriginal peoples in historic times and their descendants have a similarly strong attachment to the lands where they live and whence they came. This attachment lies behind their desire for constitutional

entrenchment of aboriginal title and other land rights. It lies at the root of landclaims, treaty entitlements and the desire for a community land base.

La chasse, la pêche, le piégeage et la cueillette sont autant d'activités importantes qui dépendent des droits d'utilisation des terres. Ces activités traditionnelles entrent fréquemment en conflit avec les droits acquis et souvent détenus de longue date par d'autres Canadiens d'utiliser ces terres aux mêmes fins ou pour l'exploitation des ressources et le loisir. Les droits de ces autres Canadiens bénéficient également de la protection de la Constitution et de la loi. Ils doivent donc être conciliés avec les droits accordés aux peuples autochtones.

Car aujourd'hui, les terres et leurs divers usages, de même que leur utilisation rationnelle et leur protection sont importants pour tous les Canadiens et par conséquent, pour leurs divers paliers de gouvernements. Quelle que soit la façon dont la Constitution statuera sur les droits territoriaux des peuples autochtones, elle devra tenir pleinement compte des droits des autres Canadiens. Les droits des peuples autochtones reconnus et énoncés dans l'article 35 de la Constitution englobent leurs titres de propriété et l'une des tâches que nous impose l'article 37 consiste à les définir avec précision. De même, nous voudrions peut-être protéger plus clairement dans la Constitution les règlements de revendications territoriales intervenus récemment avec les groupes autochtones et toute autre entente ou arrangement relatifs à leurs terres auxquels nous pourrions parvenir.

La langue, la religion et les cultures et les coutumes forment un autre ensemble des questions qui figureront fatalement au calendrier de nos travaux ultérieurs. Nous avons réussi à inscrire dans la Constitution des dispositions assurant la sauvegarde des deux langues officielles du Canada et garantissant la jouissance de leur

patrimoine culturel aux divers groupes ethniques de la société. De toute évidence, chacun de nos peuples autochtones a joué un rôle particulier dans l'histoire du Canada; cela leur donne droit, à mon avis, à une reconnaissance particulière dans la Constitution, de même qu'une place bien à eux dans la société canadienne, une place distincte de celle des autres groupes qui forment avec eux l'ensemble de la population canadienne, mais distincte aussi de celle des autres peuples autochtones.

Le gouvernement du Canada est disposé à examiner avec tous ceux qui participent à la présente étape de la révision constitutionnelle des moyens de sauvegarder, grâce à la Constitution, la langue, la religion et les coutumes des divers peuples autochtones. Mais le fond du problème, l'objectif essentiel de nos efforts pour améliorer la situation de nos peuples autochtones et consolider leurs rapports avec les autres Canadiens se trouvent dans l'ensemble des questions relatives à l'administration autonome de ces peuples. Les chefs autochtones, au niveau des communautés et des associations, reconnaissent cette donnée fondamentale depuis longtemps. Au niveau fédéral, nous comprenons la portée cruciale non seulement pour les peuples autochtones, mais encore pour le maintien de nos relations particulières avec eux et je pense que depuis quelques années, les gouvernements provinciaux et territoriaux sont aussi devenus de plus en plus conscients de l'importance de ces questions fondamentales.

We know from discussions of the past decade or so that the aspirations as regards aboriginal government vary among the several peoples and from region to region within Canada. Their preferences have found ample expression in claims settlement negotiations and agreements especially in northern regions of our country in informal and widespread discussions over a long period of time with band chiefs and other aboriginal leaders at regional and community levels and more recently in the preparatory talks with leaders and advisers of the national associations represented at this table. Such preferences range from those of some Inuit and Metis communities operating within a provincial system of regional and local government to tentative models through some form of Indian statehood within Canada. There is plenty of room for variation and innovation within that range. It seems likely and not inappropriate to me, given the known diversities which prevail across the country, that we will come up with different solutions for different communities and different places once we have begun seriously to discuss their preferences in a pragmatic way.

If we are to progress in our search for constitutional formulations and practical means we shall all have to be much more open-minded and more articulate than we have been in earlier discussions. We have to bring out clearly what it is we seek to achieve on behalf of the different groups of aboriginal peoples living in different parts of Canada.

We shall also have to put aside notions or perceptions that have surfaced in the past; that we can have systems of aboriginal government functioning somewhat in parallel with, or separate from, other governments within

our Federation. Our system of government is based on interdependence and co-operation among the several orders of government, each with its responsibilities, powers and functions flowing from provisions of the constitution, whether in the form of exclusive or concurrent powers.

Aboriginal government, in whatever form or model, will have to fit into that system. The complexity of jurisdictional issues is at once obvious and formidable. It will not be just a matter of establishing clear dividing lines for defined jurisdictions. There will also be desirable and required linkages across those lines for a whole range of community purposes: education, health services, hydro and transportation facilities, water supply and sanitation -- the list would be long. And there will be the constant requirement to deal promptly and effectively with interactions among the various governments functioning within their respective spheres of jurisdiction.

I mention these matters not to suggest that there are just too many obstacles which we cannot hope to overcome, but to underline that we should all be fully prepared to grapple with very thorny problems in deciding to move in the direction of aboriginal government.

All options revolve around the semi-autonomous aboriginal community, the hub and heart of the system. On both sides of the government-aboriginal relationship, there has been extensive study as to how responsibilities, powers and functions of the aboriginal communities could be established and carried out. As in other matters, we have to lay our ideas out on the table, side by side and face up.

The Government of Canada believes we can accomplish what the aboriginal peoples aspire to meet in their communities, partly to meet their material needs, partly to respond to their cultural traditions and shield these against heavy pressures from an overwhelming culture all around them, and partly to restore their self-reliance and self-respect. We know that some communities, or aggregations of them, wish to break loose from the agency relationship characterized by the Indian Act. But we are also aware that other communities would prefer to maintain that relationship, while still others may consider they need it for some time to come. Local autonomy, or regional autonomy, if that is what is preferred, may take on new dimensions if the diverse aspirations and needs of aboriginal communities are to be met. We shall have to search diligently to see what the possibilities are.

The aboriginal peoples are more likely to judge what we accomplish in our constitutional deliberations by the results showing up in their daily lives at the community level, than by the pronouncements of high purpose we may incorporate in our constitution. The closer we can bring our discussions to the detailed requirements of aboriginal communities, especially the small, frail and often isolated communities, the more likely it is that we shall find effective answers to questions raised by the concept of aboriginal government.

Les remarques que j'ai faites jusqu'ici visent à manifester ma disposition à accepter l'affirmation des droits des autochtones comme un moyen politique fondamental de reconnaître d'une manière tangible la place unique qu'ils occupent dans notre société pluraliste. Les trois peuples autochtones distincts que sont les Indiens, les Inuits et les Métis ont chacun joué un rôle particulier dans l'histoire du Canada et ils ont droit à une place bien à eux au sein de la société et du régime fédéral canadien.

Au seuil de cette nouvelle étape de nos discussions constitutionnelles, comme en 1969, je rejette une fois de plus, au nom du gouvernement canadien, les termes d'assimilation et d'extinction des peuples autochtones. Je les rejette aussi résolution que la notion d'indépendance complète et de souveraineté absolue comme page du rapport des autochtones avec tout gouvernement au sein de notre Fédération.

Ces deux extrêmes se situent au delà de la gamme des choix que nous sommes disposés à envisager dans le cadre de ce processus. En disant cela, je ne cherche pas à fermer la porte à toute discussion libre, mais plutôt à circonscrire les choix proposés précédemment et qui se situent entre ces deux extrêmes.

This brings me to the question of what has come to be known as the ongoing process. On behalf of the federal government, I am prepared to undertake that this process should be enshrined in the constitution as a new Section 37 to provide for two further First Ministers conferences to be held at two-year intervals or perhaps three further conferences to be held annually. While we shall not be incorporating all the solutions in the constitution, we shall try very hard to put a sufficient framework there. It will then serve as the foundation for constructing the network of institutions, laws and government instrumentalities needed to sustain the aboriginal peoples of Canada in the political and cultural uniqueness they are seeking.

We all knew last year that we were setting a demanding task for ourselves, a solid challenge to our political wisdom and foresight. My statement has attempted to focus upon the salient features I see in the way ahead, but I am conscious of gaps which only others around this table can fill. The peoples we represent look to us to move as quickly as we can along the path to a new consensus, one which all Canadians can share with pride and with dignity.

I now call upon the leader of the Assembly of First Nations to take the floor.

CHIEF DAVID AHENAKEW: Mr. Prime Minister, can you hear me? Mr. Prime Minister, just a while ago we saw the Indian nations of the country following along with their tradition, following along with what has made us strong in this country. Some people may say that it is showmanship, and so be it, but it certainly is a display of who we are and what we intend to be always. I thank you, Mr. Prime Minister, for sitting down with us. I thank the Canadians for finally recognizing that there is the First

Nations of this country. We are assembled here this morning to begin the next step , a painfully overdue and long neglected step in the long process of nation building. The Constitution Act of 1867 mentions three distinct peoples, the Indians, the French and the English. Until now, however, only two of these two peoples ever participated directly at the First Ministers constitutional conference. It is therefore no accident that Canada's constitutional order has evolved to the disadvantage of the Indians.

However, we are entering a new era in Canada and we enter that era in a spirit of goodwill and cooperation. We do not intend to judge Canada's sincerity and expressions of goodwill other than by Canada's actions from this day forward. We offer our assistance in building a better and more equitable Canada.

Permit me, Mr. Prime Minister, to digress for a moment. I want to share a personal perspective with you, not because I am important, but because my experience typifies or exemplifies the experience of most Indian people here today and all across Canada. I am a Cree. I come from Sandal Lake Reserve in Saskatchewan and I can trace my family as far back as before the treaties were ever signed and reserves established. My family fought for Canada in two World Wars and I served in Korea.

I remember growing up on the Sandal Lake Reserve and making our own living without constitutions, without conferences like this and we were just here, and we had always been here. I remember asking my grandfather one day who we are, how did we get here, where did we come from? Of course, we all know how we got here and where we came from. I remember how the Indian government used to work on the Sandal Lake Reserve, and then Indian

Affairs began to run more and more of our lives for permission to sell our cows, permission to sell wood, permission to leave the reserve and more and more our government, our language and our culture was trampled, our values, our religion, our pride and our self-worth was attacked.

Imagine what it is like to watch your brothers and sisters lured away to the cities to face unemployment, to face welfare, alcoholism and dependency, to lose their dignity and their pride and imagine what it is like to know that you, your brothers and sisters and your children, face the highest infant mortality rates in Canada, shortest life expectancy, highest incarceration rates, highest rates of violent death, highest suicide rates, the highest rate of death in fires and somebody else's governments are in charge. Yet, we are here. Why? Notwithstanding the pressures, something about us, our identity, our sense of who we are, our sense of our place in this nation has survived and it won't go away, we won't go away.

Regardless of what you may decide, whether you recognize us or not, whether you establish a relationship with us or not, we won't go away and the core of our existence in this nation won't go away, it will continue to grow.

The First Nations are unlike any other in Canada and that is what this conference is about.

Mr. Prime Minister, it is important that I clarify at the outset two matters with regard to our participation in this conference. First, our interpretation of Section 37. If this is viewed at this stage as a forum for negotiation and resolution of problems, then it can almost be viewed as a non-starter. This is your forum and not ours.

If, on the other hand, it is viewed as a public

consultation process for the purpose of assisting Canada to begin the process of formulating a new relationship with Indian governments, that is quite another matter. Then, we have a great deal to offer and we are ready to begin.

Secondly, we need to clarify the presence and involvement at this conference of the provinces in respect to Section 91(24). Our relationships have always been with the Crown as a single unit. How you divide yourself up internally for your own purposes is your business. Our relationship is with Canada rather than its parts. We view this conference, as far as Indian issues are concerned, as consultations between the Indian governments and Canada.

In respect to Indian issues, it is Canada's business to decide what advice it requires from its various parts. However, historically and under Section 91(24), our relationship is directly with Canada. I am confident that Canada's commitment to the process we begin at this historic conference is in part a reflection of the integrity and sense of international justice that underlies Canada's signing of both international covenants on economic, social and cultural rights and the international covenant on civil and political rights.

Both covenants provide as their first article, and I quote: "All peoples have the right of self-determination. By virtue of that right, they freely determine their own political status and freely pursue their economic, social and cultural development."

It is my intention this morning and over the next two days to assert on behalf of the Assembly of First Nations and the Indian governments of this country, our positions with respect to our political, civil, economic, social and cultural rights.

They are positions consistent with the international covenants to which Canada is a signatory and based on the Declaration of First Nations of 1980 and the Treaty and Aboriginal Rights Principles of 1981. They are positions outlining rights which we have not and which we will not surrender. Canada must recognize that we have always been here. This is our country. We have never had and will never have another country and Indians are not going to disappear or go back where they came from. This is where we come from.

I ask, Prime Minister, that no one misinterpret our positions strongly held or our words no matter how strongly spoken to mean that we are separatists seeking to divide Canada and assert the status of foreign nations. To this day tensions between English and French have often led governments to refuse to even listen to our position. I emphasize that we have more invested and more at stake in the future of this nation than anyone else. We are committed to strengthening and building Canada, not to dismantle it. Nevertheless, we do hold as our first priority the commitment to continuous asserting and secure constitutional entrenchment of the rightful place of Indian governments within Canadian Federation.

I say we have more invested in the Canadian Federation than anyone else, because without Indian lands and resources the Federation would have no economic base and no gross national product and no national economy and there would be nothing over which the other two governments, federal and provincial, would have jurisdictional debate to conduct.

I say we have more at stake in the future of this Confederation, this Federation, because while this is our

country past, present and future, we seek now to finally determine the nature of the relationship that will exist between Indian governments and other orders of government.

Our land and our resources through expropriation by relatively recent immigrants to Canada and their descendants have been and continue to be the most significant foundations of this Federation. We have given the most to Confederation and have received the least from it. In that context we seek recognition and entrenchment of what we have always had and continue to have as a matter of right.

Our goals for this conference are clear, straightforward and simple. One, agreement to entrench aboriginal rights, aboriginal title and treaty rights in the Constitution of Canada and they must be implemented.

Secondly, agreement to entrench in the on-going process of constitutional clarification to define and direct the details of the relationships between the first order of government, Indian governments, and the more recent orders of government, federal and provincial in Canada.

We view our presence at this table as recognizing our role in the building of this Federation and as a significant historic signal, a signal that Canada may finally be prepared to recognize, accept and entrench constitutionally aboriginal rights, aboriginal title and treaty rights. Having said that let me hasten to add that it is our position that the authority of our governments as the first order of government in Canada is not derived from the political institutions established by immigrants and their descendants in this country.

I turn now to Indian government and the question of what do the Indians want. As I said earlier, we recognize the boogeyman and the red herrings that are trotted out whenever

the word "sovereignty" is used. We recognize that it is the view of many that the word "sovereignty" defines an extreme on one end of the list of options available and the word "assimilation" as you have indicated, Prime Minister, describes an extreme at the opposite end. We say there is a middle ground. Most people today would agree that Canada has rejected at least in official public statements an assimilation policy for Indians.

It can be inferred then that some measure of Indian sovereignty and jurisdiction is accepted by Canada. The task that remains is to clarify, agree upon, recognize and constitutionally entrench that measure of Indian sovereignty and jurisdiction.

When we say sovereignty we are not talking about extremes. We are talking about recognition and entrenchment of Indian sovereignty and jurisdiction within Confederation. We are not seeking to establish our own armies and our own foreign relations. We are, however, asserting that Indian governments have jurisdiction over Indians, Indian lands and resources. We are simply re-asserting the jurisdiction that has always been and continues to be the inherent rights of the Indian people. Such concepts are not unfamiliar to most recent Canadians who claim varying degrees of sovereignty and jurisdiction for themselves, at the same time as they deny our position. For example, the province of Prince Edward Island with far less land area, with one-third the population that Indians have, has sovereignty and jurisdiction over certain agreed-upon matters affecting their citizens. They are empowered to legislate, to make original law, to exercise sovereignty within an agreed-upon constitutional framework on matters affecting education, municipal institutions, health,

social services, economic development and many other areas and yet with three times the population and a much larger land base we have been called unrealistic when we assert that we seek recognition and entrenchment of Indian government control over our lives, our own economies, our own resources.

Within Confederation and the Constitution of Canada Indian governments must be recognized as the first order of government in Canada. Indian governments will have exclusive sovereignty and jurisdiction over matters coming within our powers. The federal government will continue to have exclusive sovereignty and jurisdiction over matters coming within its powers and provincial governments will continue to have sovereignty and jurisdiction over matters coming within their domain. Relations between our governments and other orders of government in Canada will be altered only by mutual agreement as is the case today between the provinces and the federal government.

There is a wide range of options as to how we can, within the Canadian Federation, exercise our jurisdiction and establish our own political, social and economic institutions. The Canadian Parliament must avoid the temptation to impose a uniform formula on all Indian governments in Canada. We are asserting the need to initiate and entrench an on-going process and before we get sidetracked on a debate as to the how we must first make certain that the Canadian Parliament understands, accepts and confirms that we have territorial, political, social, cultural, religious and economic sovereignty and jurisdiction, an on-going process must be entrenched to provide for a variety of ways in which Indian governments choose to exercise their jurisdiction.

I am concerned that some people seem to take the position that any gain by the Indians will mean a loss for the provinces. Surely, when we honestly view the historical record no one would seriously advance such an argument at this point in our history. I will not go through the long list of social and economic ills faced by Indian people and Indian communities. The situation is well known, suffice it to say that whatever the social or economic indicator you wish to choose the situation of Indian people in Canada constitutes an inexcusable embarrassment to all Canadians.

These situations have accumulated over centuries of ignoring, bypassing and pushing aside the sovereignty and jurisdiction of Indian governments. Your governments have been in charge. They have built massive bureaucracies, spent billions of dollars and the result has been political, economic, social and cultural devastation of Indian people in our communities.

I ask you to admit that while your government's intentions may have been good, they have failed. I ask you to admit that Indians can do the job where others have failed. I ask you to admit that to do the job we need recognition of the clear jurisdiction and authority to solve our own problems. We accept that responsibility.

This will not be a net cost, it will not be a loss to the provinces or anyone else. Surely every Canadian will gain by the unleashing of Indian energies, creativity and productivity.

Mr. Chairman, I said earlier that we recognize that in order to exercise our jurisdiction and fulfill our responsibilities to our people we must have a land base and

our fair share of our natural resources. I also remind you that we recognize and Canada must also recognize that the other two orders of government, federal and provincial, have no financial base other than Indian lands and resources. We are not asking for grants or welfare cheques. We are simply calling upon your duty and responsibility to ensure that Indians receive, through direct federal government to Indian government arrangements, our share of benefits from our resources.

There are a variety of options and mechanisms which can be agreed upon and put into place to ensure that this happens. Those can be identified during the on-going process that we expect to entrench at this conference.

Finally, Prime Minister, in keeping with the lessons learned in other countries which have decolonized, a process must be established to entrench that ensures the protection and progress of Indian governments on our journey toward the full exercise of our sovereignty within Confederation, our jurisdiction within Confederation and those self-governing powers that are needed.

The best measure of agreement is through the political process and we must be able to maintain our sovereignty and jurisdiction without continual reference to the courts. Let me continue that we were born with aboriginal title, aboriginal rights and our treaty rights. We pass these rights on to our children and that is what it means to be Indians, to be the first nations, to be the first order of government in Canada. Canada is now faced with a challenge and the opportunity to recognize the Indian fact of the Canadian federation.

If Canada is up to the challenge, if Canada will grasp the opportunity, Canada will be better for it. Thank you.

THE CHAIRMAN: Thank you, Dr. Ahenakew.

I now call upon the spokesman of the chairman of the Inuit Committee on National Issues, Mr. Charlie Watt. I am sorry, Mr. John Amagoalik.

MR. JOHN AMAGOALIK (PRESIDENT, INUIT TAPIRISAT OF CANADA): Thank you, Mr. Prime Minister.

Mr. Prime Minister, Premiers and members of the Territorial governments, fellow Inuit and Metis leaders, ladies and gentlemen, the Inuit Committee on National Issues represents the Inuit of Canada on constitutional matters. We have come to this conference on the premise that we have aboriginal rights. The elected representatives of Canada attested to this at the time of their unanimous approval of the aboriginal rights clause on January 31, 1981. It is our sincere hope that we can establish a more equitable and just constitutional relationship with our governments and our fellow Canadians. The Inuit like the other aboriginal peoples of Canada were excluded from the formal process of founding this country in 1867. Nevertheless, we do not consider it too late to actively participate in the

constitutional process which will guide Canada's future. There are those who believe that Canada is a partnership between the English and the French. It is our belief that the aboriginal peoples must be a third partner if Canada is to ever enjoy political stability. We appreciate this opportunity to be present here today, to make known our positions with respect to our rights in Canada's new constitution. Through persistence, tenacity and plain hard work, we as the aboriginal peoples of Canada last year achieved recognition and affirmation of our aboriginal rights in the constitution. It now remains to define and entrench those rights in the constitution.

The Inuit are here at this First Ministers Conference for a central purpose, to identify and entrench aboriginal rights in Part II in the form of an Aboriginal Charter of Rights. Due to the time constraints of this conference, and an extensive number of items on the agenda, we would prefer not to spend undue time on opening comments and would rather concentrate on the vital issues that face all of us at this conference.

All of those present know who the Inuit are. You know the vast Arctic regions where we live, and we have in fact helped Canada establish its sovereignty by virtue of our occupation.

You are no doubt familiar with our rich and long history in this land of our ancestors. We therefore propose that all parties to this conference get down to the task at hand which is before us for the next two days. We consider this conference not only an historic occurrence, but one vital to our survival as a distinct people. We recognize that the issues which we confront are often difficult ones, but we are confident that if we all work together in the spirit of cooperation and nation-building, we will achieve more at this conference than many of us perhaps expected. Thank you.

THE CHAIRMAN: Thank you, Mr. Amagoalik.

I now call on the spokesman of the Native Council of Canada, Mr. Louis Bruyere.

MR. LOUIS BRUYERE (PRESIDENT, NATIVE COUNCIL OF CANADA): Thank you, Mr. Chairman. My statement will be made in two parts, one part by myself and one part by my vice-president in terms of what we want to put across at this conference.

We as the Native Council of Canada are here to represent our provincial and territorial organizations in terms of what it says in the Constitution Act, and we are here to identify and define the rights to be included in the constitution, and we see our rights as being inalienable to land, water and resources through aboriginal title, the right to determine the usage of land and resources, our right to self-identity, the preservation and enhancement of cultures and customs, the protection of aboriginal languages, the self-governing institutions which give full control over essential aspects of our lives, guaranteed representation in the legislatures and other political and administrative institutions and structures within the Canadian federation.

We approach this conference in terms of what has been taking place over the past months with some optimism and caution, I guess, cautious optimism, because of the involvement of other people in terms of our problems, and the way we handle our organization. Now, people say come to these conferences and trust your governments and a lot of times we find that very difficult because of the things that have happened over the past. As leaders have said before me, our people have fought in the wars, World Wars for something that we used to take for granted, freedoms,

and our people in them wars, because of the structures within Canada, you figured they were civilized and made them non-status Indians. That is the power that you seem to think you have, but if you are born an Indian, you are an Indian and we have the Native Women's Association who sits with us and they will be making representations on their own behalf because of some of the problems that you as governments have caused for us. We are not here to deny those rights for the native women and their children, we are here to give them their rights back because you can't make an Indian a white person and you can't make a white person an Indian and that has to be understood by all people concerned in terms of why the aboriginal peoples are here to try and carve themselves a place in Canadian federation.

Our people in the past have helped to bring Canada together in more ways than one, more than just bringing Manitoba and the Prairies into Confederation. Through that process that was set in place in the 1800s, we would like to see this process continued, but the only way we see this process continuing is through an entrenchment of an ongoing process which has a Charter of Rights in it and them principles must be included in that charter for it to be meaningful for our people at any time in their lives.

At this point in time I will let my vice-president continue on.

MR. BILL WILSON (VICE-PRESIDENT, NATIVE COUNCIL OF CANADA): Thank you very much, Mr.Chairman.

I wanted to emphasize some of the concerns we have as the Native Council of Canada, speaking on behalf of Metis and non-status Indians in all the provinces and territories. We are very concerned, and we submitted papers to your officials

before in regard to our desire to see pre-Confederation treaties considered as part of the constitution and a recognition and entrenchment of modern day agreements, some of which are going on but also involving the treaty rights of the native Indian people on the Prairies and those areas like James Bay where people have made agreements.

We feel that only with the persuasive nature of what could be called the constitutional law, can these agreements survive intact in any future relationship and thereby not allow a whittling away of those agreements.

We are committed to seeing this concept of consent, you might call it consultation, but we of course are very leery of consultation because oft times it appears that consultation is flying a Jetstar over an Indian reserve and if no one protests, then you have an agreement. We want to make absolutely sure that if you are talking about consultation, if you are talking about consent as we are, that we have to talk about actually getting the approval of the native Indian people when their rights are affected in the things we do. So, we are standing four-square behind the concept of consent, otherwise the agreements we make today will have no validity for us in future generations. We are committed as well, as I said, to the entrenchment of certain rights, one of which is equality, which I will make some comments on. We are committed as well to an ongoing process, not only within a specified period of time that would allow us to dispose of what we consider to be matters of importance to us now, but a process that would allow us to go on building a nation and a country that will be suitable for our children for thousands and thousands of years.

You, Mr. Chairman, and your people, have been involved in nation-building for some 115 or some 116 years. My people from the coast of British Columbia have been involved in nation-building for 30,000 years on the same piece of land. If it takes us another 30,000 years to make this the kind of nation that is suitable for our people, we commit ourselves to that task, as I am sure that you in your desire to bring the constitution home to our country have committed yourself to the task to make sure our rights are protected and the people's rights in Canada are protected.

I think one of the things the public should understand, and you, sir, should certainly understand, is that despite efforts intended or otherwise to divide and conquer us, even in these discussions, that we stand here united with the other people at the table representing Metis, Inuit and Indian groups because it is our belief that no group individually can exercise rights unless all people have those same rights.

We know that it would be very easy for governments, as they have sometimes in the past, to play off individual groups against each other by giving certain people benefits. We have no desire to become involved in that kind of a process.

I said I would make some comments about equality and I tried to save it for the end, near the end, because it is to me something that is not only near and dear to my heart but it is something that I think is of absolute essence to the things that go on and I want to make the point that equality for me is probably a halfway house in regard to our native Indian women.

My mother is present here and in our tribe the women are the people who are the holders of all the history, they bear the children, they raise the children and they basically perpetuate the tribe. Somehow over the experience with non-Indian people that has been turned around and we have the Victorian assumption that if you are a male you are superior and that to me is not true and I will settle for equality as a halfway house on the road back to restoring our traditions that a lot of people like my mother and other elder women in our tribe to give us the direction that is required instead of listening to 12(1)(b) or the Indian Act or any other piece of federal legislation that has been imposed upon us.

I want to talk to you, Mr. Chairman, about what I believe to be the essence of nation building and it is very simple. It is as simple as making sure that you have mutual respect and dignity for all of the people that you talk to and deal with. The unfortunate reality is that mutual respect and dignity becomes clouded with considerations of power and who exercises it and perhaps in your discussions about openness

and frankness that is one thing that we should be open and frank about. I know that there are people here at this table who are more concerned with protecting the power they have, the jurisdiction they have, than making sure that the laws of Indian, Inuit and Metis people across this country is improved and I think if we have something to learn from the process and from your remarks, Mr. Chairman, it is that we must insert in our discussions that mutual respect and dignity and eliminate from a lot of our discussions the concept of competition and the adversarial relationships that unfortunately have all too often filled our statements in the past.

We have the ten Premiers and yourself, the Prime Minister of this country. We have the leaders from the two territories as well as the leaders of the native Indian, Inuit and Metis communities across the country and we have thousands of years of history. You have some 200 years of history on our land and we have allowed ourselves, unfortunately, to see that 200-year history erased to a large extent. What the Great Spirit put here in this country for us to exercise, our right to our own languages, our own cultures, our own traditions, our own religions, our own relationship to the land and our own way of doing things and we must make the commitment as you have said to restoring that, not only in economic terms, because dollars are not going to solve this problem. A change in attitude among all Canadians must solve this problem and if that change in attitude can begin here at this table and filter out across the country, perhaps then we won't have the problems that we have in this country somewhere down the road. The native Indian, Metis and Inuit people of this great land provided the land and the resources

that allowed you people to develop. It all belonged to us and we shared it and over 200 years you have caused many problems on our land and I suggest to you, Mr. Chairman, that you need us again, because within our communities we have the attitudes and the relationship to the land and to the people and to the waters and to the air and I want you to know that Canada will never reach its full potential as a country unless we reach back into the native Indian, Inuit and Metis communities for the strengths that allowed them to live here for so long and that, Mr. Chairman, in my opinion is the challenge that we face now and we accept our responsibility to be free, open and frank, but we will not tolerate in the future attempts to divide and conquer us.

If this constitutional process has done anything else, it has strengthened the unity among the native Indian, Inuit and Metis people despite other efforts to the contrary. I thank you for that and also thank you for the opportunity of being here.

I want, Mr. Chairman, to say to my children, to your children and the children that they produce the wish for a better country that is based on mutual respect and dignity.

Thank you very much.

THE CHAIRMAN: Thank you, Mr. Wilson.

We will now hear from the Metis National Council, the spokesman Mr. Clem Chartier.

MR. CLEM CHARTIER (Vice-President, Metis National Council): Thank you, Mr. Prime Minister. Mr. Prime Minister, delegates of the aboriginal nations, the provinces and territories to the elders and children of the aboriginal nations, I would like to reaffirm that the circle of life is intact and

as long as the forces of nature remain we as aboriginal people, aboriginal nations, will survive and that was clearly demonstrated this morning.

Mr. Prime Minister, as a national representative of the Metis National Council, I would like to take this opportunity, this moment, to formally express our appreciation for the invitation which has been extended to the Metis to make it possible for us to address the issues before this conference.

I will now read a short statement which will be followed by an oral presentation to be made by the Chairman of the Constitutional Committee of the Metis National Council, Mr. Jim Sinclair.

The purpose of our participation in this conference is to entrench in the constitution the right of the Metis people to a land base and self-government. We believe the realization of these rights is essential to the preservation and development of our aboriginal nationality within Canadian Federation.

We believe we must have these rights entrenched in the Canadian constitution to fulfill our Metis destiny. The children of the fur trade, the Metis, emerged as a distinct national community in Rupert's Land towards the end of the 18th Century. Our ancestors played a major role in the fur trade economy. They developed a unique aboriginal culture and identity.

In fact, one would say that there was a development of a new aboriginal nation within the country now known as Canada. They formed a political consciousness, Metis nationalism, and expressed this nationalism whenever their collective rights were being threatened.

At the time of the Hudson's Bay Company transfer of Rupert's Land to Canada the Metis already had a land base and self-government. The decision by Riel and his followers to resist the transfer resulted from government agents ignoring the rights of the Metis settlers. When guarantees for the lands and the right to self-government were not forthcoming from the Canadian government, the Metis acted to safeguard their rights.

The provisional government which was the result of this negotiated the entry of Manitoba into Confederation as a province and Manitoba is here today. Hopefully, we will see the continuation of that nation-building coming to I suppose recognize the Metis presence in the west.

The Metis believed that they had a deal in the Manitoba Act which gave them what they wanted land and self-government. The Canadian government, however, had something else in mind. The provisions for land were exercised in a manner that in ten years the Metis of the Red River were almost completely dispossessed. Displaced from the province they had created the Metis moved west and north, settled at Batoche, St. Paul, St. Albert, Battleford, Cypress Hills and in other communities. From their new homes the Metis began to petition for the recognition of their land rights and they began to exercise local government functions over their affairs.

As settlement began to crowd in on the Metis again they again began to fear for land, for the preservation of their culture and for their right to be self-determining. For 12 years the government had turned a deaf ear to their petitions. In 1884 they again acted in their own defence.

own defence.

The decision made was to bring back Riel to lead them in their fight to have their land and other rights constitutionally recognized. It is not necessary to repeat the story of what happened since it is one of the better known events in Canadian history. The death and martyrdom of Riel has been a symbol to our people and the injustice they have suffered. Others, who stood up for their rights in Canada, such as Howe, Mackenzie, Papineau have become heroes and influential leaders. Riel was instead branded a traitor. Even though the government promised to satisfy the Metis land claims in the northwest, the events of Manitoba were to be repeated. Only a few of our people remained in possession of their land. The rest were left in abject poverty and despair, dispersed to isolated rural and northern communities or to the slums of the new towns and cities.

Their reward for daring to stand up and fight for their rights has been discrimination, discrimination in education and training, in employment, in job pay and in the receipt of health and social services. They suffered many problems and acquired an image as a rejected people. In 1980, when the government of Canada began seriously considering steps to patriate the Canadian constitution, we lobbied long and hard to ensure that the rights of the Metis would be entrenched in the constitution.

In 1981, we were successful in having the Metis recognized in the constitution as one of the aboriginal peoples with a promise that new rights could be negotiated in the future under the provisions of Section 37. We find it a contradiction that the government of Canada is once again attempting to deny that it has any legal responsibility for the Metis and, in particular, we find it difficult to understand why the government would make such a statement at one of the meetings preparatory to this conference. We had made it clear to the government in 1980 that we were looking for, and were prepared to negotiate a political settlement. Is the government going to suppress our rights again? After 100 years, we have one more chance to negotiate our rights and our main priorities are still land and self-government as they were one hundred years ago.

We expect these constitutional discussions to continue until these rights are resolved. The Metis National Council as the sole and legitimate representative of the Metis in the Prairie provinces is here to fulfil the historic mission of the Metis nation to secure a place we can call our own.

With that, Mr. Prime Minister, I will vacate the chair and Mr. Sinclair will step forward.

THE CHAIRMAN: Thank you, Mr. Chartier.
Mr. Sinclair has the floor.

MR. JIM SINCLAIR (President, Metis National Council):

Good morning, ladies and gentlemen. I will just take a few minutes and will not take very long. It has been a long road to this conference and it has been a long road for the Metis to get to this table. You are all well aware that Louis Riel was elected three times to Parliament and he was refused a seat in Parliament. The Metis were almost again refused a chair at this table. However, we are here, and because we are here, we are willing participants in this meeting to discuss aboriginal rights, aboriginal title that should be entrenched in the constitution.

We have been called rebel Metis. I think that that is a fair analysis of us because we went to battle twice for our land. We like to be called that and we stood up for our rights, we fought for our rights. Our forefathers also went to war twice for this country as somebody else mentioned, and our people died for this country.

It is very sad to see our people who have suffered over the years to deal with oppressive governments throughout the years regardless of what political party led that government. We have faced serious problems of politicians not facing the responsibility of dealing with us and leaving the responsibility to the welfare agencies, the RCMP, the police forces across Canada. That is who has dealt with our lives in the past and we have continued to be occupied, living under occupation, that is what we like to call it, rather than as participants in this so-called democracy.

I would like to remind you again, and I think it has been repeated by others, that the problem with democracy in a country such as this where you have minorities such as the aboriginal people

is that and democracy does not always work because democracy will look after the majority and they will trample on the rights of minority peoples like us. That is why you need a new constitution that will include our rights to balance that constitution. That constitution now has rights for Canada's people in general but it must include rights for the aboriginal people because if we don't include those rights, you have not got a balanced constitution, you have not got a constitution that is valid, you have got a constitution again that is against certain people, that will work against certain people, minority groups, and that is not fair in this country. I want to remind you again that we want to balance that constitution and we can do that in the next few weeks or few months or next few years. The Metis again have felt very strong in terms -- we are not arguing aboriginal title at this table for the very reason that aboriginal people and aboriginal title are one and the same. They are together, you cannot separate them and that is the reason we are coming to this table and talking about what aboriginal title means to us. It means the right to a homeland. It means the right to self-determination. That is our version of aboriginal title and the Metis must be recognised in the new constitution.

We are prepared to deal on a tri-party agreement. We are prepared to deal with the federal government and the provincial governments and once our rights are defined, we want those rights entrenched in the national constitution. I do not want to see our rights segregated from one provincial government to the other under legislation or under a provincial Charter of Rights. That will not work. Other Canadians are living and are going to live under a national Charter of Rights and we have that same right to live under that national Charter of Rights.

The agenda items for the Metis is very paramount that it include a land base and self-government for the Metis.

No. 2, we want to see a continuing valid constitutional process with a timetable and schedules that will be set out to deal with specific issues that we have.

We also want to see a definition of those rights that will be entrenched in a national constitution, when those rights are spelled out and defined by us.

We want the federal government to share the trust or to take the lead role in terms of protecting our rights and getting them entrenched in a national constitution. That is important to us.

I also want to emphasize again that the partnership that we are talking about in this country, we want to act as partners, we want to be participants, we don't want to be left out, we want to be included in every step of the way in defining our rights and getting our rights entrenched in the national constitution.

That is all I think I want to say at this time, except that I want to say once again that it was difficult to get to this table, we will have some difficult times during the next few months or next few years, but we are prepared to face those responsibilities and I think that the emphasis should be put on our own people, of the responsibility it must take in getting the problems resolved and some solutions in order to get our rights entrenched in that constitution. We are committed to a political process. The courts have never worked for us. We have lost in the courts, the laws have been made to oppress us, and so we are prepared to make a political solution with the Premiers and the Prime Minister and the political leaders of the country and other aboriginal peoples. Thank you very much.

THE CHAIRMAN: Thank you. I will now call upon Premier Davis of the government of Ontario.

HON. WILLIAM G. DAVIS (PREMIER OF THE PROVINCE OF ONTARIO): Mr. Prime Minister, I listened to your admonition about making relatively brief opening statements, and I will endeavour to abide by that request. I must say how impressed I have been by the articulate presentations made by the representatives of the aboriginal peoples, and I guess I am encouraged by the constructive way in which their points of view have been presented.

Mr. Prime Minister, this is the first opportunity that this country's First Ministers have had to meet under our new and our own Canadian constitution, to hopefully realize many of the promises contained within it. In that respect, and in view of the fact that we are joined at this table for the first time by the leaders of Canada's native peoples, this, I think for all of us is an extremely historic occasion.

I have been impressed, Mr. Prime Minister, by the manner in which the meetings with the native leaders in which my Ministers and myself have participated, have served to advance our understanding of the many issues, and I have been encouraged too by the many helpful proposals which are already on the table.

I think it is obvious, Mr. Prime Minister, as you have pointed out and as the spokesmen for the native peoples have already stated, the list is lengthy, they are complex, they are going to be difficult. Their scope and their impact on the existing commitments of government will require careful-- I hesitate to use the word in case it is misunderstood, but will use it anyway -- cautious discussion, and as a result of this, and something I have sensed in our own discussions, Mr. Prime

Minister, a premium will have to be placed on mutual trust, on realism and on moderation.

I listened very carefully to the representative of the Assembly of First Nations when he made it, I think, abundantly clear that the traditional relationship, Mr. Prime Minister, has been as between the native people and the government of Canada. I want to say to that distinguished Canadian that I respect that, I understand it, but I hope I understand as well that in the constitutional process, the involvement of the provincial order of government, the involvement of the premiers of that order of government is a part of the constitutional process and, as a result, I am anxious to present some points of view, but once again emphasizing that Ontario does understand and does respect the traditional and legal relationships that do exist with our national government.

I think it is critical, Mr. Prime Minister, to the ultimate effectiveness of this conference and I sense we are beginning to understand that there will be conferences that follow that we all recognize just how far we have come in the matter of aboriginal rights and where we want to go from here. There, in my view, can be no debate as to whether we recognize aboriginal rights, but only how we do it, what is the mechanism and how do we accomplish it. The constitution of this country recognizes and protects aboriginal rights in several of its sections and that matter, Mr. Chairman, is not at issue and we are not going back on those provisions.

In addition, I think it is important that as we consider the case in the perspective of the aboriginal peoples of Canada we must keep in mind the Canadians we serve who are not with us on this occasion. In proceeding to fuller aboriginal guarantees we must attempt to do this in moderation and in understanding.

The point as I see it at least of this meeting, Mr. Prime Minister, and those to follow is for Canada's First Ministers and native leaders to decide whether the definition and development of the constitutional rights of our aboriginal peoples rests with the political system or with the courts. If we and indeed if our successors fail over time to flesh out our broad commitments, the courts will do so notwithstanding our inactivity and while I have great respect for the courts, Mr. Prime Minister, Ontario would be far happier to see a political development or resolution of these issues in a way that we can achieve some measure of consensus. I would never presume to foresee or to comment upon future court decisions, but I do believe we would abdicate our responsibility to ourselves and to the constitution itself if we failed to take a leadership role in these matters.

I think we have to be very frank. I think we have to recognize, Mr. Prime Minister, that governments are undertaking a legislative as well as a program response to the protection of aboriginal interests. Ontario, like other governments represented around this table, is responding to the implications of the existing constitutional provisions through specific initiatives directed to the native peoples in our jurisdiction to endeavour to overcome some of the long-standing irritants and to set a basis for a healthier relationship within the native communities in our own province. As examples I can think of our joint study along with aboriginal groups of natives in an urban setting as well as our new Native Council on Justice, our Indian Policing Agreement, our response to specific land claims and the new Indian Fishing Agreement, but these actions, Mr. Prime Minister, in my view as Premier of our own province are no substitute for further constitutional clarification of what aboriginal and treaty rights imply.

I like to think, Mr. Prime Minister, that our own province has had a good record when it comes to seeking a constitutional response to aboriginal rights. We were, going back over the deliberations around this table, among the first provinces and this is my recollection, to put the matter of aboriginal rights in the constitution on the agenda for First Ministers. We have funded the work of native groups in their preparations for constitutional discussion and have met regularly with them at a political and staff level to discuss their views.

During the recent ministerial meetings, Mr. Prime Minister, discussions leading to today's meeting,

Ontario tabled a number of possible amendments. We tabled a draft preamble, all of which are initial, but nonetheless we view them as positive. We like to think they are constructive proposals that will be considered as we attempt to achieve our mutual goals as they relate to the constitution.

As one looks at the agenda in front of us, I believe it represents a constructive approach to a complex set of issues that are surrounded by very deeply-held feelings and properly so. As we approach these issues I for one do not think we can merely opt for comfortable solutions and reject change out of hand. Equally, I am aware that native leaders may find that our sense of caution and our concern for balancing what we propose to do along with the interests of others represents a lack of interest on our part in solving the problems faced by aboriginal peoples. That in my view is not the case.

I think at the outset, Mr. Prime Minister, we must deal with the question of what is manageable and what is attainable in a two-day conference of this nature. As I look at the agenda and consider discussions to date I think we could aim at perhaps four objectives, there may be more. First, before we set out to discuss specific issues I would like to see it as a priority, ensure that we will be meeting like this in the years to come. To do so will mean at least an agreement and hopefully a constitutional amendment to extend these discussions into an on-going process.

Our province, Mr. Prime Minister, has already tabled a draft amendment that will extend these consultations over a period of years and include required meetings of First Ministers and native leaders. The second objective perhaps concerns the manner in which we can ensure guaranteed

consultation with aboriginal leaders with respect to future constitutional amendments which could affect native people. We can support an amendment to the constitution which would require us to have consultation with native leaders before a constitutional amendment affecting them can become effective.

Thirdly, Ontario suggests that two other matters must be considered in order to guide us in our future decision-making. We support the correction of any confusion respecting the equality of status between aboriginal men and women and would suggest a constitutional amendment to provide for clarification where there is any doubt and this brings me, Mr. Prime Minister, to a fourth objective, to indicate those areas of common commitment in any on-going process and to preserve a climate of mutual trust and understanding. Ontario suggests that a set of principles could be entrenched to guide future negotiations and these principles would become an integral part of the new section of the constitution I proposed earlier regarding the on-going process. They could identify and these are not totally definitive, I stress this, the leading aboriginal issues to be addressed, the unique culture, the language, the family life of native peoples, the matter of self-governing institutions within the Canadian Federation and participation and the benefits of resource development and the economic use of their lands.

These kinds of principles, Mr. Prime Minister, could perhaps strike a balance between attempting to define rights now which maybe in some of these cases could be premature or ignoring the issue for some further period of time which fails to guide us in any on-going process. I think if there is to be a consensus, Mr. Prime Minister, that

there must be an on-going process and I advocate this. I think it would be extremely helpful if the on-going process could focus on certain principles where we could then direct our attention and our deliberations. They could be in my view a starting point not only for our multilateral meetings here, but also perhaps and I will only speak for our own province, form a framework for specific agreements between individual governments and the native people who are resident within that jurisdiction.

We will, Mr. Prime Minister, have more to say on these issues when they are raised later in the meetings. The impression I want to leave with this brief opening statement is that in my view we cannot stand still in terms of our existing constitutional commitment to aboriginal rights.

Today we meet once again to seek out landmark agreements. This time in respect of Canada's first inhabitants. There are, as several have already suggested and one must acknowledge this, gaps in the understanding between many of us and these gaps must be bridged. It is my hope, my expectation, that through a patient, a co-operative approach in our meetings together I think we can in fact bridge these gaps over a period of time and I look forward, Mr. Prime Minister, to working with the representatives of the native people, my fellow First Ministers and you as Chairman to meet the challenge that faces those of us who are here at this table.

THE CHAIRMAN: Thank you, Premier Davis.

LE PRESIDENT: Thank you, Premier Davis. Je donne maintenant la parole au Premier ministre Lévesque, de la province de Québec.

M. RENE LEVESQUE (Premier ministre de la province de Québec): Monsieur le président, sauf tout votre respect, je suis sûr que vous comprenez, ce n'est pas parce que vous nous avez convoqués que nous sommes ici aujourd'hui. La seule et unique raison de notre présence, c'est le respect que nous avons pour les peuples autochtones d'abord et, avant tout évidemment pour ceux du Québec, et la solidarité que nous avons décidé, un peu à nos risques et périls, de leur manifester après que leurs représentants élus aient demandé avec insistance que nous soyons présents.

C'est également parce qu'à l'intérieur de certaines limites que j'expliquerai dans quelques instants, il nous a paru indiqué de faire notre part pour que les autochtones, pour que les nations autochtones ne soient pas traitées de la même manière que l'a été récemment une nation française, dont le Québec est le foyer et la seule patrie.

Depuis les tout débuts, les Québécois de race blanche ont entretenu, dans l'ensemble, de meilleures relations que quiconque sur ce continent avec les autochtones. Ce sont même les liens entre les autochtones et les francophones en provenance du Québec qui ont contribué le plus à donner naissance à ce peuple distinct, celui des Métis qui est représenté aujourd'hui à cette table. Il en fut ainsi en tout cas jusqu'au siècle dernier, après quoi il y a eu cet éloignement, cette coupure qui a été créée par l'instauration officielle et exclusive de la tutelle fédérale avec toutes ses retombées d'isolement,

d'aliénation qu'elle a traînées dans son sillage et que, entre autres, le chef Ahenakew évoquait tout à l'heure avec une brutale éloquence.

Il y a quelques jours le grand chef des Cris du Québec, M. Diamond, faisait une déclaration à la dernière conférence préparatoire, une déclaration qui, hélas, résume bien ce qui résultait dans tout cela dans l'esprit et dans le coeur de nos concitoyens autochtones. "For too long, secrecy, duplicity and bad faith have characterized your government's relations with our governments and peoples."

Ce jugement lapidaire, et largement justifié, le Québec doit comme les autres en accepter sa part; mais j'ajouterai que sauf erreur nous avons également été de ceux qui ont tâché plus vite que d'autres, gauchement parfois, mais qui ont tâché d'améliorer et de corriger un tant soit peu cette situation. Je me permettrai même à ce propos de rappeler que dès les années 60, dans un autre gouvernement, celui qui vous parle a été parmi les premiers à s'efforcer avec des moyens purement provinciaux à aider nos concitoyens autochtones à s'émanciper quelque peu de cette véritable chape de plomb que leur imposait cette tutelle d'un autre âge. C'est alors que nous mettions sur pied, et ministère des Richesses naturelles du Québec, comme on l'appelait à l'époque, une direction générale du Grand Nord qui était essentiellement au service des Inuits.

Et ainsi, le Québec, d'une étape à l'autre, est-il devenu une des premières provinces à vouloir dispenser aux autochtones des services d'éducation, de santé, de maintien de l'ordre et souvent, je dirais très souvent, il l'a même fait à ses propres frais; et c'est pour maintenir

le dialogue permanent avec les autochtones tout en coordonnant le mieux possible cette action de plus en plus diversifiée que le Gouvernement actuel a mise sur pied en 1978 un secrétariat aux Affaires amérindiennes et inuit dont j'ai tenu à assumer personnellement la responsabilité ministérielle.

J'aimerais citer brièvement quelques autres exemples de ce que le Québec a fait dernièrement, à la demande des autochtones eux-mêmes, pour étendre dans toute la mesure du possible certains bénéfices à tous et à chacun d'entre eux. Ainsi le Québec a-t-il tenté de réparer l'injustice qu'on fait subir aux femmes indiennes qui, par l'effet d'une loi tout bonnement inique, perdent leur statut dès qu'elles ont la malencontreuse idée d'épouser un Blanc, alors que l'inverse n'est pas vrai, c'est-à-dire que ça n'arrive pas à un Indien qui se marie avec une Blanche.

Depuis 1980, le Québec a donc redonné aux femmes qui sont dans cette situation, pour ce qui concerne en tout cas l'ensemble de nos propres lois, le statut d'Indienne qu'elles avaient ainsi perdu. Tous les Amérindiens du Québec d'autre part sont récemment devenus bénéficiaires d'exemptions de taxes dans le domaine des communications et de l'électricité, ce qui constitue, sans que nous ayons été contraints par quelque engagement, une extension des exemptions qui avaient déjà été accordées dans le cadre des conventions de la Baie James et du Nord-Est québécois.

Ces conventions que je viens d'évoquer, qui étaient une grande première et qui demeurent le seul événement de cette ampleur au Canada, c'est sous le gouvernement qui nous a précédés qu'elles furent d'abord amorcées,

En 1975, en effet, était conclue avec les Cris et les Inuit la Convention de la Baie James que, pour notre part, nous avons par la suite étendue aux Naskapis. La mise en oeuvre de ces conventions a nécessité depuis lors l'adoption de plus de vingt lois distinctes et a impliqué l'octroi de sommes importantes pour le développement des minorités concernées. Pour nous, ces conventions ont valeur de traités et à ce titre, elles ne sauraient être modifiées sans l'accord de nos partenaires autochtones.

Je souligne aussi que ces ententes couvrent déjà environ le quart de tous les autochtones qui vivent au Québec. J'ajoute, et je sais que certains ne seront pas d'accord, peut-être qu'un jour on y arrivera, et j'ajoute que nous sommes convaincus quant à nous, qu'on aura une meilleure chance d'assurer ensemble, de concert avec elles, le développement auquel aspirent toutes les communautés autochtones si on peut prendre la voie de telles ententes comme une formule permanente.

Cela dit, je ne peux pas prendre la parole devant cette assemblée sans évoquer les événements qui se sont produits lors de la dernière conférence constitutionnelle, celle de novembre 1981. Je vais être bref, c'est pas le plus agréable des souvenirs. Mais il faut bien en dire un mot, puisque ce sont ces événements-là qui imposent, par simple respect de nous-mêmes et de notre propre nation, car elle existe elle aussi, qui imposent donc de sérieuses limites à notre participation à cette conférence. C'est cela qui nous fait aujourd'hui une position que d'aucuns, à juste titre sans doute, ont qualifiée d'ambiguë. Très simplement, le Québec ne reconnaît pas la légitimité du Canada Bill qui sert maintenant de Constitution au Canada. C'est le résultat d'un coup de force qui a été consommé

en notre absence et dans notre dos. En ce qui nous concerne, ce Canada Bill ne crée qu'une situation de fait et absolument pas une situation de droit. Et tant que le Québec n' aura pas été pleinement rétabli dans ses droits, il refusera de reconnaître cette nouvelle Constitution.

Les conditions auxquelles nous pourrions la reconnaître éventuellement, elles ont été clairement énoncées par notre Assemblée nationale et, si nous n'avons pas voulu en faire un préalable à cette conférence, c'est uniquement, je répète, par souci d'équité et de solidarité à l'égard des autochtones du Québec. Ces conditions, il est de mon devoir de les rappeler brièvement.

Premièrement, en lieu et place d'un veto que paraît-il nous n'avons jamais eu et dont très évidemment on ne veut plus entendre parler, sauf avis contraire qu'on attend toujours, eh bien, qu'on nous accorde alors cette formule de retrait que d'aucuns autour de cette table se rappellent sans doute et qui garantirait dans tous les cas pleine et entière compensation.

Deuxièmement, le rétablissement de droits et de pouvoirs en matière linguistique. Je comprends nos amis inuit et amérindiens quand ils parlent du maintien de leur culture, du maintien de leur identité, bien nous aussi. Donc, le rétablissement des droits et pouvoirs en matière linguistique qu'on nous a enlevés et sans lesquels, je le souligne, le Québec ne serait jamais entré dans la Fédération canadienne.

Et troisièmement, c'est un peu la suprême ironie, au moment où l'on envisage la reconnaissance constitutionnalisée de droits, non seulement individuels, mais des droits collectifs, de droits en quelque sorte nationaux, des peuples autochtones et Dieu sais s'ils l'ont longuement et douloureusement méritée cette reconnaissance bien, de la même façon, il aurait fallu et il faut qu'on admette également, spécifiquement l'existence, l'identité d'une

autre nation tout aussi distincte que n'importe quelle autre et qui est concentrée au Québec et qui y trouve sa patrie et que le Canada Bill s'est permis d'ignorer totalement comme s'il s'agissait d'une simple collection d'individus. On sait à quel point l'individu c'est fondamental mais il appartient aussi à une communauté. On a fait comme s'il s'agissait d'une collection d'individus qui n'ont aucun caractère distinct alors qu'en réalité ils ont un caractère spécifiquement et complètement national.

Maintenant, je sais que nos amis autochtones peuvent être déçus, ils nous l'ont dit, du fait que notre présence ici, à leur demande, ne doive laisser aucun malentendu sur notre attitude à l'égard du Canada Bill. Quels que soient les résultats de cette conférence, le Québec n'acceptera de poser aucun geste qui impliquerait une reconnaissance même implicite de ce document constitutionnel, comme j'ai eu l'occasion de l'expliquer aux dirigeants autochtones que j'ai rencontrés, qui ont forcément trouvé ça insuffisant. Mais nous non plus, on ne se laissera pas abolir.

Comme j'ai pu leur expliquer, le Québec, d'autre part, ne s'objectera à aucune modification constitutionnelle qui n'affecterait pas encore une fois les droits et les pouvoirs de l'Assemblée nationale du Québec, aucune modification constitutionnelle qui pourrait être mise en oeuvre sans la pleine participation du Québec. Et il en est un bon nombre. Et c'est uniquement si on tient compte de cette position du Québec qu'on fera vraiment des progrès; si l'on n'en tenait pas compte, ce serait en réalité comme si l'on jouait un autre jeu que celui de vouloir obtenir du progrès. Ces progrès, donc, nous ne pouvons malheureusement pas y concourir pleinement, parce que nous ne pouvons pas en conscience accepter de cautionner ainsi un vol de nos propres droits.

Encore une fois, on me l'a dit chez nos interlocuteurs autochtones, cela a été répété ce matin, on est "tanné" paraît-il, on en a jusque là de ces conflits entre Blancs, en particulier entre le Québec français et l'Etat fédéral et le reste du Canada anglais. Mais ça aussi, ça fait partie de ces réalités qui ont été évoquées à l'ouverture de la séance, de ces réalités qu'on ne peut pas escamoter. D'ailleurs, en terminant, je me permettrais de dire aux représentants autochtones qu'ils feraient bien de se méfier un peu de ce processus de discussion constitutionnelle qui, croyez-en ou ne croyez pas notre vieille expérience québécoise, peut recéler une foule de traquenards. Nous avons appris, nous, à nos dépens aussi, à quel point la reconnaissance ou même le simple maintien de droits peuvent être aléatoires dès qu'on s'embarque sur cette voie étroite et semée d'embûches.

Comme je l'ai dit, nous croyons quant à nous que la voie des ententes avec les gouvernements provinciaux de bonne foi est et serait infiniment plus rapide et bien plus prometteuse aussi, parce qu'il y a là une évolution possible que le processus constitutionnel en général tend plutôt à bloquer. En tout cas, on me permettra de dire que ça nous paraît évident en ce qui concerne le Québec, puisque tout récemment notre gouvernement acceptait formellement de négocier une telle entente avec la coalition qui regroupe la plupart des autochtones québécois quel que soit leur statut. Nous avons même accepté que ces négociations se fassent à la lumière d'énoncés qui ont été définis en réponse à quinze demandes précises que nous avait formulées la coalition autochtone. Il me fera plaisir de déposer aujourd'hui le texte de ces quinze réponses. Sauf erreur, le Québec est seul autour de cette table à avoir pris le risque de commencer ainsi à afficher ses couleurs. Je

dis bien risque parce que, même si c'est un point de départ qui nous semble valable, nous sommes bien conscients que c'est encore loin d'être parfait; mais c'est mieux, me semble-t-il, que certaines autres attitudes qui ne visent qu'à... on dit en anglais "to embroil", c'est-à-dire qu'à mêler les cartes.

Quoiqu'il en soit, cette démarche que nous avons entreprise pourrait conduire prochainement à la conclusion d'un protocole en bonne et due forme entre notre Gouvernement et les peuples autochtones du Québec, de manière à définir de façon précise et définitive et tout aussi irrévocable que n'importe quel autre enchâssement, les droits fondamentaux, les conditions de développement et toute la mesure possible de "self-government" de ces communautés nationales qui vivent à nos côtés. Merci, monsieur le président.

LE PRESIDENT: Merci, monsieur Lévesque.

I now give the floor to the representative of the government of Nova Scotia, Mr. Edmund Morris.

HON. EDMUND L. MORRIS (MINISTER RESPONSIBLE FOR NATIVE AFFAIRS, NOVA SCOTIA): Mr. Prime Minister, Nova Scotia, one of the "old sweats", the original signatories of confederation, welcomes the further opportunities at this conference to contribute to the modernization of constitutional and other arrangements to reflect and enhance the rights and aspirations of Canada's aboriginal people.

The official position of Nova Scotia was iterated as recently as nineteen days ago, in the speech from the throne opening the second session of our 53rd general assembly:

"Significant strides have been made by my government towards a greater understanding of the unique problems of native people. My government fully supports the view of native people that their lands are a total federal responsibility. My government will vigorously support their demand for improved federal performance of its responsibilities to the native people at next month's (that is, this) constitutional conference."

We will continue to be attentive during this conference and hereafter as before it, to listen to the representatives of the aboriginal people. We will respond to their expressed concerns and demands as sensitively and as responsibly as we can within our duty to all the people of our province.

Nova Scotians believe ourselves to be agreeable and moderate people instructed by past adversities in the prudence and wisdom of practical reality. We have learned to batten down the hatches when the winds are foul and to bend on sail when the winds are fair. We think the probabilities for today and tomorrow are such as to favour the latter.

None of us, aboriginal, provincial, territorial or federal representatives, expects to resolve all the aboriginal peoples' interests and aspirations in the next two days. Nova Scotia expects and will mean to contribute fully to worthwhile progress and to practical provisions for further responses.

In this spirit and expectations, there are three items on our agenda which Nova Scotia believes it is honourable and honest to address immediately in these brief opening statements.

Nova Scotia believes the most critical of all the matters to come before us at this conference is that we agree by its end to an assured ongoing process. Nova Scotia believes that it should be taken as the last, but guaranteed, item on our agenda immediately prior to any closing statements.

By virtue of Section 54 of the Constitution Act, 1982, the present Section 37 will be automatically repealed "on the day that is one year after this part comes into force" - that is April 18, just 34 days from now. There is no practical way a constitutional amendment can be secured in all federal and provincial legislatures in 34 days. For that practical reason, Nova Scotia supports an accord providing for the ongoing process including constitutional amendment.

We recognize that aboriginal representatives do not place unbounded faith in the political commitments of non-aboriginals - of course, Prime Minister, they have in mind others than Nova Scotia - but we believe that an accord among the parties, at the close of our conference tomorrow, with the ongoing process itself empowered to consider future constitutional amendment as one of its agenda items, is a practical, effective and honourable way to avoid a situation in which there could be no provision for ongoing process at all. Nova Scotia is prepared to assent in public, by signature here, to an appropriate accord providing for an ongoing process, including constitutional amendment and other matters affecting the aboriginal people.

Section 28 of the constitution guarantees rights and freedoms equally to male and female persons. Nova Scotia has understood this to include all Canadians, aboriginal as well as non-aboriginal. Native women have urged each of us, especially the federal government, to assure that that is so. Nova Scotia is prepared for its part to agree to add in Part II, Section 35, a provision to guarantee that the rights and freedoms referred to in Section 28 apply equally to male and female aboriginal persons.

On a third agenda item, Nova Scotia is not persuaded to a like agreeability.

It has been stressed by aboriginal representatives, in the conversations and meetings leading up to this conference and indeed alluded to in other opening statements here today, that provisions of the constitution affecting what the aboriginal representatives perceive to be aboriginal rights, should never be amended without their consent. Nova Scotia cannot accept this view if by "consent" is meant veto. The federal parliament already has a veto. Its agreement is necessary for any constitutional amendment. Nova Scotia will agree to consultation with and participation of aboriginal representatives in discussions of any proposed amendments that would directly affect them, but we encourage them to reflect again and to propose an acceptable alternative to formal consent and veto.

Mr. Prime Minister, over the doors of the centre block on Parliament Hill are inscribed the great words:

"The wholesome sea is at her gates, her gates both east and west."

Nova Scotia is at the rim of the eastern sea. Westward and northward stretch the land and the history of Canada. Nova Scotians are here with goodwill and the intent so to conduct

ourselves as to assure justice and equity to the aboriginal people and to all the people of our beloved province and Canada.

Merci, monsieur le Premier ministre.

THE CHAIRMAN: Thank you, Mr. Morris.

J'appelle maintenant le Premier ministre de la province du Nouveau-Brunswick, M. Hatfield.

HON. RICHARD HATFIELD (Premier of New Brunswick):

I want to state very briefly that the government of New Brunswick is here to make further improvements and guarantee further equality among Canadians, for Canadians, within our constitution. I can remember many years ago when I sat down to the first constitutional conference to try and bring about the of our constitution. I remember the hopes that I had then, the expectations and the doubts that took over ten years to realize, what I thought we could realize in one meeting in Victoria in 1971. I think that what we are starting out on today is something that before it reaches a state of sufficient provision for the equality of the aboriginal people will take a good deal of time, and so it should. It is in the interest of doing it right, and the interests of doing it with the assurance that we are in fact providing and entrenching in the constitution the best for the aboriginal people in our country.

I took note of the comment made that the Assembly of First Nations deals with Canada, that is I assume the government of Canada and so it has been and so it will continue to be. However, I think it must be understood that within the context of the constitution that Canada is not the government of Canada alone. Canada within the constitution is the government of Canada, the Parliament of Canada, the legislatures of the provinces and I think that has to be acknowledged and accepted and respected. I will, I can assure the aboriginal people, work with them to make certain that what is finally agreed to is in the best interests of those Canadians who are the descendants of the people who were here when the settlers came to this part of the world.

I will do everything I can, because I have had the experience and the rewards of working for what we have accomplished so far in our constitution and it is a worthwhile task that we undertake. It is one that has a great deal of satisfaction once you reach, as I said, a certain stage where you think you have sufficient -- sufficient guarantees or sufficient protection for the people that the aboriginal chiefs speak for and I will be prepared to continue this process in a way that is acceptable to them for as long as it takes and with the dispatch and the best that we have to again assure that the status of citizenship in Canada is equal and is improved more than it is at the present time and that we will have to recognize that we will have to work as elected representatives of our people. We will have to work continuously to achieve that forever. It is not a job that is ever done and completed.

Thank you, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Premier Hatfield.

Le Premier Ministre du Manitoba, Premier Pawley.

HON. HOWARD PAWLEY (Premier of Manitoba):

Thank you, Mr. Prime Minister.

Native leaders, fellow premiers and honourable delegates. I am pleased to be here this morning for the beginning of what is destined to be a truly historic occasion for all the people of Canada. I am proud that the people of Manitoba through the delegates who are represented here will have an opportunity to partake in a process which is long overdue. It is long overdue because the amendments dealing with aboriginal matters in our constitution are absolutely necessary if our constitution is to truly guarantee the rights of all Canadians.

This conference is historic for many reasons, most importantly because it is the first time representatives of Canada's aboriginal peoples and territorial governments have been able to participate in a First Ministers' Conference. I am particularly pleased that the official Manitoba delegation includes representatives from the Assembly of Manitoba Chiefs and representatives from the Manitoba Metis Federation. I am also proud that Manitoba's aboriginal peoples are represented in the delegations of the Assembly of First Nations and of the Metis National Council.

It should also be noted that the Manitoba delegation has developed a consensus around many issues. However, we have agreed to clearly identify those areas where agreements need to be reached and aboriginal representatives within our delegation may bring forth differing perspectives to your attention. Although we have reached

agreement on many issues we have also come to respect the different points of view that exist in respect to many other issues.

My government was elected to office in Manitoba on November 17, 1981 and it was elected amidst the national debate over how aboriginal rights must be entrenched in our constitution. We committed ourselves to the entrenchment and to the definition of aboriginal rights and we are proud to be able to work towards that goal.

During the past year the government of Manitoba and elected representatives of the Indian and Metis people of our province have been working together in defining our position. The goals which we are striving for are the result of an extensive consultation and dialogue with our native leaders and a process which listened to the statements and opinions of native people at the grass roots level.

This has not been a perfect process, but for all its limitations it has brought us to this table with the strength of well-developed concepts and ideas.

Our Statement of Principles is reflective of a common will which has resulted from working on a common cause. It is also reflective of what can be achieved through consultative co-operative process. Our co-operative process taught us many lessons. It taught us that we share differences, but more importantly it has taught us that we share many of the same goals. I also believe that the end result of this process has resulted in a model which I sincerely believe is one which others can follow.

I know that we have high expectations placed in the constitutional conference process. The responsibilities

before us are immense, but are not insolvable. We must be patient, but we should be strengthened by the fact that our course is just and the future will be what we have the courage to make of it.

We should realize that entrenchment of aboriginal rights does not diminish the rights of other Canadians. It strengthens our people and our society.

The special status of aboriginal peoples in Canadian society stems from their occupation and collective ownership of lands prior to European settlement and the application of European law.

At the time of the European settlement in what is now Canada, our ancestors encountered aboriginal peoples who existed and who had long existed as distinct nations. These aboriginal peoples exercised the power of self-government over their religious, their cultural, their economic and their political life. They exercised control over their territory and over the living and the natural resources in the land that they inhabited. This is true for the aboriginal people who lived in what we now call Manitoba as it was for those parts of Canada which now comprise the Canadian provinces and the territories.

Over the several centuries which followed the coming of white settlement many developments have taken place in the construction of Canadian society. Account must be taken of this political and constitutional structure in the process of identifying and defining aboriginal rights for inclusion in the Constitution of Canada. For example, the fiscal, and the trust responsibility of the federal government stems from the devolution of Crown responsibility, defined in part in the

Royal Proclamation of 1763. It cannot and it must not be unilaterally abandoned.

Similarly, the right of aboriginal peoples to self-government must now be further developed in the context of the Canadian constitution. Economic development will also be essential if self-government is to be realized.

There are several key positions Manitoba would like to address briefly in these opening remarks. We believe these to be of such significance to warrant special attention at this time. In many ways this historic conference provides a window between the past and the future we all seek. For that reason it should only be considered as a beginning.

The difficult process of identifying, defining aboriginal rights which have existed for centuries must take place over a considerable period of time. Therefore, the constitutional recognition which has been given in Section 37 to the task must be continued. Manitoba strongly believes in a constitutionalized on-going process. While we support those provinces and the federal government who are proposing an amendment to the Constitution Act to replace Section 37, at the same time we feel that this action alone indeed may be insufficient. The amending process can be lengthy and uncertain.

It is fundamental that the present conference not be terminated, but be adjourned to a set date in one year's time. We cannot and we do not accept the notion that there is a legal impediment to such a process. We will be clarifying these views at the appropriate time in this conference.

Manitoba also believes that it is of the utmost importance that this conference adopt a statement of

principles. We understand that there will be some proposals to entrench a statement of principles along with a new Section 37. While the government of Manitoba does not oppose this position, we believe that a much broader statement of principles than can possibly be included in an amendment to the constitution at this time must be declared at this conference. Such a statement can express the political will of the various governments of this country concerning aboriginal rights. We have already tabled our proposed statement of principles.

It is the view of Manitoba that a constitutional charter of rights for the aboriginal people would be substantially incomplete without a meaningful role for the aboriginal peoples in being able to initiate amendments and in being able to apply their consent to constitutional amendments which exclusively and directly affect them.

The objection which some aboriginal groups have to this conference and to this process is based in a considerable part on the valid notion that without an amending formula which includes them in a material way, and then "to entrench is to the entomb", the government of Manitoba will propose to this conference that in addition to adopting an ongoing process, a statement of principles and a statement with respect to the consent issue, that the conference should also adopt a framework agreement for the proposed Charter of Aboriginal Rights. The government of Manitoba will be tabling such a proposal at that point in the agenda when the conference is dealing with the particular rights of aboriginal people.

We in Manitoba view constitutional developments involving aboriginal peoples as a hopeful prospect. We view them as beneficial for all the participants, the aboriginal, the non-aboriginal. The potential winners of this process we are now embarked upon are not just the aboriginal peoples of Canada but, Mr. Prime Minister, in our view the winners are all Canadians. Thank you.

THE CHAIRMAN: Thank you, Premier Pawley.

I now turn to the government of British Columbia and give the floor to Premier Bennett.

HON. WILLIAM R. BENNETT (Premier of the province of British Columbia): Thank you, Mr. Chairman and provincial colleagues, representatives of the native Indian groups and also I would like to welcome for the first time the representatives of the two territorial governments, the Yukon and the Northwest Territories, and say of the many First Ministers conferences

that we have held over the past number of years, I don't think it is any exaggeration at all to note, that this conference is unique from a national perspective. It not only brings representatives from the two levels of government within the Canadian federal system but also, for the first time, it brings to the table those most affected by the deliberations. The importance I attach to this broad participation is more than symbolic, for if we have learned anything these past years of constitutional discussion, it is that unilateralism does not work and that consultation is fundamental for success in Canada.

In this respect, the process of constitutional development is not much different from the governing process in general, whether it is economic recovery, labour-management relations or constitutional change.

In British Columbia, as I am sure you would find elsewhere in Canada, cooperation and consultation are pre-requisite to success. Native Indians, the Inuit and the Metis are here to address constitutional matters of particular concern to them, but I think it is fair to say that these matters are of genuine interest and genuine concern to all Canadians.

Mr. Chairman, if there is any doubt about the intense interest which surrounds the conference in the British Columbia Indian community, it is surely dispelled by the knowledge that many hundreds of native people from our province are here today either to participate or to observe our proceedings or to monitor them on behalf of those at home in the 350 Indian communities in British Columbia. I am personally very pleased to see that the Indian peoples of British Columbia have such a strong representation in Ottawa and here at this conference for

these two days of discussion, but this conference is of interest to all British Columbians, for there is an underlying appreciation among all of our people of the richness and diversity of the many cultures of the Indian people of British Columbia. This strong and visible Indian identity is a cherished asset, a source of enrichment and a fundamental component of our provincial heritage.

We are here to talk about aboriginal rights, and let me assure you that in doing so, we will not be disputing the overwhelming evidence of the long history which the Indian peoples have had in our province. Longer ago than any of us can imagine, Indian societies were well developed in what is now known as British Columbia. All British Columbians are proud of this heritage which, when taken as a whole, is probably the strongest manifestation of native culture in Canada.

Let me take you one step further and suggest to you that the Indian societies of British Columbia have evolved to become as sophisticated and dynamic as any indigenous as any culture in the world. Northwest coast Indian art is perhaps the best known manifestation of Canada's Indian culture and its master works are admired as among the great achievements of the world's artisans.

The British Columbian approach to these important deliberations is in a positive spirit and with an open mind. We are attentive to the concerns of the native people and of even greater significance we are hopeful that this conference will provide the native peoples an opportunity to communicate their concerns directly to their fellow Canadians in a clear and concise way through the media present at this conference.

This, in our view, is fundamental to dealing with the concerns of native peoples within the framework of our federal system of government and of a culturally-diverse society. For, in

the final analysis, the governments present today are but agents of all other Canadians. We are not unmindful of the fact that there are those among the native people who have not enjoyed the full benefits of Canadian society. In some cases they have lacked opportunities, economic, education, health and other amenities that most other Canadians take for granted. These shortcomings are not necessarily created by the constitution, nor can they necessarily be alleviated by constitutional amendment. In constitutional terms, the native peoples benefit as do all Canadians from our new constitution and from the application of general laws at both the federal and the provincial level.

The present constitution can, of course, be altered and it is to begin this process that we are gathered here today, but in making change, we should proceed with caution and not rush in to hastily-conceived change that might have a profound effect upon Canadian society as a whole. A re-shaping of attitudes, a re-shaping of government policies and legislative initiatives may prove to be as important, if not more important, in addressing native aspirations. This should include a clarification of government responsibilities, but in consultation with native people for the delivery of services and all that is necessary to ensure to native people the full benefits and responsibilities of Canadian citizenship.

I am convinced that this can be accomplished. It can be accomplished without distracting from the distinct, valuable, social and cultural elements that native peoples contribute to Canada. What is required is a spirit of cooperation and of mutual trust. While grievances exist, nothing will be achieved if acrimony and bitterness intrude.

The record of accomplishment of the British Columbia government over the past several years on a wide range of long-standing native issues provide evidence that when the spirit

of cooperation and goodwill is present, much can be achieved. In 1976, our government for the first time in British Columbia's history, joined with the Indian band and the federal government in a negotiation process and in 1977 our government entered into tripartite negotiations to solve the reserve cut-off lands dispute, a dispute that has festered in our province since 1920.

Three cut-off settlements have now been achieved and others are being negotiated. Moreover, we have achieved an important agreement with the Fort Nelson Indian band to share natural gas revenues that accrue from pools located beneath the reserve, and there are other examples of this cooperation including the recent awarding of a tree-farm licence to the Stewart Trembler Lakes Indian band which out-competed its rivals for valuable timber rights. I cite these examples, Mr. Chairman, to demonstrate that as is true of restraint, as is true of the delivery of health care, as is true of so many other facets of British Columbia society today, cooperation is working and progress is being achieved, but we should not have inflated expectations lest disappointment be the inevitable result. At least nineteen items have been identified by the native people for this conference. Some of these items are highly complex and others are highly controversial. Some are constitutional and others are not, and still others have not been precisely defined.

For these reasons and others, there has not been to date an opportunity for detailed discussion and exploration of the far-reaching implications of some of the proposals.

In view of the number and complexity of the issues I believe it is recognized around this table and as I have heard stated in opening statements that it is just not possible to complete the process we are now embarked upon during the two days that have been allotted to this conference.

The issues surrounding native rights are important ones and must be resolved. For this reason an on-going process has to be agreed upon before we leave Ottawa. There are a number of alternative proposals as to process that have been discussed and British Columbia is flexible on this question. It matters less what form this process takes than that there be an agreement to continue our work effectively and thoroughly and we will be part of the consensus on process that develops and this is British Columbia's commitment to the future of these continuing discussions.

In addition, however, there are issues that can be resolved during these two days. I refer to such items as native consultation on future constitutional change, equality rights for native women and native consultation on international matters that affect -- this is not in any way to down-grade the importance of the main issues, but rather it is to recognize that if we try to resolve all matters before us during these two days we may end up effectively solving none. In my view it would be a tragedy to lose the momentum that is developing on the issues that I have mentioned.

In setting up an on-going process we should not preclude discussion on other constitutional issues that are of concern to Canadians. There has been a great deal of effort over several years on a number of issues that did not

find their way into our constitution when it was brought home to Canada. These issues are as important today as ever and should not be put on hold indefinitely.

For example, the British Columbia Legislature has adopted a resolution to entrench property rights in our constitution. Support from the federal Parliament and six other provinces is required to complete this unfinished business that is of concern to many Canadians. Now, particularly over the course of the on-going process when native property rights will be discussed and without in any way detracting from the time and effort that should be devoted to the important discussion of native rights that are on the table today, it would also be appropriate to confirm explicitly in our constitution, Mr. Chairman, the property rights of all Canadians.

I am hopeful that our deliberations here will meet with success and that we will some day look back on today's meeting as only a beginning. I believe it is the hope of all British Columbians and of all Canadians that we continue the process of constitutional reform in a flexible and evolving manner.

Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Premier Bennett.

I now turn to the Government of Prince Edward Island and recognize Premier Lee.

HON. JAMES H. LEE (Premier of Prince Edward Island): Mr. Chairman, fellow Premiers, territorial leaders, representatives of the aboriginal people at the conference table here this morning.

Mr. Chairman, today is not only in my mind a

very historical day for the founding people of our country, but also for Canada as a whole. We see here today with us around the table the leaders of all the jurisdictions in this great country, prepared for the first time to deal seriously in this forum with any inequities of the past and hopefully to set a framework whereby all of our peoples, no matter what race or religion, can live in harmony in the future.

Our present constitution and short historical past as a country has shown us that we have the backbone to accommodate provinces as small as Prince Edward Island and as large as Ontario, as well as the flexibility to adjust to the changing times.

It is, Mr. Chairman, with this past that the aboriginal people of our country can hope for some satisfaction in the future on many issues. I feel our country, like others, in today's world will be judged on how it treats all of its people and especially those with the unique historical and cultural tradition.

It is my hope that the issues that exist today with the aboriginal peoples can be accommodated through a political solution which will entrench these rights in our constitution. This will ensure that all citizens of our country are treated fairly and with the dignity every Canadian deserves.

We must understand that rights are not dependent on numbers. The number of Prince Edward Island aboriginal people is small. Nevertheless, we must be as concerned with these rights as those jurisdictions with numbers which are much larger. These citizens of our province had ancestors hunting and fishing on a seasonal basis 10,000 years ago and

research has also found evidence that year-round settlements in our province were established 2,000 years ago. So as you can see, Mr. Chairman, these small bands are our heritage and our mutual relations in relative terms has been very short.

While it is recognized that aboriginal peoples in this country have existing rights under existing treaties, we are also prepared to consider their request for a charter of rights. However, it is imperative that we agree at the outset on the general principles that would be included in any such charter. Once agreement is reached I expect the rights to be formulated from the principles and subsequently entrenched in the constitution.

Furthermore, it is essential that every jurisdiction know the extent of these rights and that equitable treatment be received by all Canadians.

In addition, we think that whatever progress we make during the next two days with respect to principles and/or rights that the federal government's suggestion brought forward at our Ministers' meetings be seriously considered. That recommendation included the entrenchment, the principles in the preamble of Section 37 of the constitution. We believe that this would be a solid indication in our minds of our intentions.

I understand as well that during the Ministers' meetings the aboriginal groups showed support on equality for men and women. Our government is of the opinion that the present constitution as it now stands adequately covers this topic. However, Mr. Chairman, it may be advisable to strengthen this section by amending Section 25.

While we have said all of this about the facts of

rights and principles, any final solution will require a clear definition of concepts. The complexities of this task, these tasks, are enormous and this meeting today should only be considered as a major stepping stone to any final result.

It would be folly in my mind and in our thinking if we thought that all expectations could be fulfilled at this meeting here over the next two days. Consequently, Mr. Chairman, Prince Edward Island is committed to an on-going process either by way of constitutional entrenchment or a political accord that ensures all topics discussed are resolved in the near future by whatever process will be determined by this meeting.

Our relationship with our founding peoples in Canada have not been without problems, but they are not without hope. The aboriginal people of this country add an aspect to the Canadian culture itself that benefits all Canadians I feel. This rich cultural constitution should be remembered as we proceed with the discussions today and tomorrow.

Thank you.

THE CHAIRMAN: Thank you, Premier Lee.

Could I have the advice of the conference?

We, as you know, from the administrative arrangements, made provision for lunch to be served to the delegates, to the delegates only, at the Arts Centre from 12:30 and the place has to be cleared at 2:00, so I am faced with the problem of having five more delegations, three provinces and the Yukon and Northwest Territories. If we hear from them now the lunch won't be available, so I wonder if the various delegations will accept to adjourn now at 12:30 and return for a start at 2:00 o'clock sharp. That is the first question.

The second is that several of the delegations

The second is that several of the delegations who have already spoken have indicated that they had tabled principles or would table a statement of principles and that is our case too, we intend tabling a statement of principles at the lunch break and indeed in more of the form of a constitutional resolution which would give shape to the on-going process which makes me think that we should firm up the suggestion I made at the beginning for a meeting at 8:00 o'clock of the Committee of Ministers and representatives of the aboriginal peoples, the committee that met twice already in preparation of this, chaired by Dr. MacGuigan. I think we should make that firm so that the various delegations can arrange to have a maximum of five people present there.

At the same time at 8:00 o'clock, as the Premiers know, they are invited to dinner at 24 Sussex to discuss, first, economic matters and, second, constitutional matters apart from the aboriginal one.

On the first point is there general agreement from those who haven't spoken to wait until after -- then in that case we adjourn the conference.

La conférence est ajournée jusqu'à 14h00 aujourd'hui.

FIRST MINISTERS' CONFERENCE
ON
ABORIGINAL CONSTITUTIONAL MATTERS

CONFERENCE DES PREMIERS MINISTRES
SUR LES QUESTIONS
CONSTITUTIONNELLES INTERESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

(unverified and unofficial)

Afternoon Session
March 15, 1983

COMPTE RENDU TEXTUEL

(non révisé et non officiel)

Séance de l'après-midi
du 15 mars 1983

OTTAWA
March 15-16, 1983

OTTAWA
les 15 et 16 mars 1983

2:00 p.m./ 14:00 h

THE CHAIRMAN: Silence, s'il vous plaît. Order please. This brings me to the subject of tonight's meeting at 8:00 o'clock. I understand from Dr. MacGuigan and others that there is a fair amount of documentation which has been put forward by the provinces, by the federal government and by the aboriginal people. Those who plan to attend that meeting tonight should make sure that they do have copies of this and that they realize that tonight in a sense will be a negotiating session. We have not submitted any texts that we think are unchangeable, and I don't think the provinces have either. I don't know about the aboriginal delegations, but the purpose tonight would be to find the best formula for, shall we say, the principles or the ongoing process or other amendments to the constitution, and it would be important that you know that these documents are there and that they are there for discussion purposes and that the discussion will begin tonight at 8:00 o'clock.

That being said, I think we should go and finish the first round of interventions and we will now hear from the premier of Saskatchewan, Premier Devine.

HON. GRANT DEVINE (PREMIER OF THE PROVINCE OF SASKATCHEWAN): Thank you, Mr. Prime Minister.

My provincial colleagues, native and aboriginal people and fellow Canadians, many have spoken before me today and have already expressed sentiments which I share. I particularly appreciate the sincerity of the comments in words like "the spirit of goodwill", "plain talk ", "open-mindedness", "realism", "mutual trust", "common sense". In particular I would like to echo the warm greetings extended to the representatives of the aboriginal peoples and territorial governments who are here to discuss with us issues of mutual concern.

This is the first time in the history of this country that such an assembly has been held. Saskatchewan is proud to be represented here. This coming together of governments and peoples may be unique in world experience. It is a tribute to the desire of all Canadians to see us address squarely the issues raised by the native peoples of Canada as part of the constitutional revision process.

The Canadian people may have to recognize that change is necessary and that the process for change is essential. I appreciate the sincerity and strength with which the spokesmen for the aboriginal peoples presented their arguments. I am proud to see the goodwill evident here. While I cannot endorse all that has been stated or all the claims that are put forward, I do share your goals and your aspirations, as I believe all people in Saskatchewan do. You are concerned with building, for the aboriginal peoples, a future better than the past. You wish to overcome and remove many of the obstacles that you see in your paths.

I suppose in many ways the people of my province have shared the experiences of the aboriginal people. I acknowledge, as I think all must, the special feeling which aboriginal people have for the land and the special relationship they have with the land. The people of Saskatchewan, like my grandparents, came to this land only a century ago to forge a province and a society. They succeeded in doing so by living in harmony with the land and by relying upon it just as the aboriginal peoples do and have done for centuries. We have different cultures, but we both have strong ties and deep respect for the soil. In Saskatchewan all people, aboriginal and non-aboriginal alike, have learned to cope with the forces of nature which are sometimes with us and sometimes against us, but never neutral.

Consequently, we can identify with and appreciate

perhaps more than others, the concerns and the frustrations of the aboriginal people of Canada. As well we are sympathetic to their concerns because Indians and Metis are an integral part of the Saskatchewan mosaic. There is no part of our province where one can remain indifferent to or unaware of their concerns.

In terms of percentage of total population, there is no other province where the significance of the aboriginal population is greater than in our province of Saskatchewan.

So, the concerns of the aboriginal people are our concerns and my concerns. As a representative of all the people of Saskatchewan, one of the most pressing concerns is the alarming statistics available to me concerning the aboriginal peoples: the low labour force participation rate; the relatively small number who complete high school; the unacceptable infant mortality rate; the number living below the poverty line and more.

It is painfully obvious that Canadians of aboriginal ancestry do not enjoy the same or even similar standards of material and social well-being as do other Canadians.

In my province this is unacceptable and on behalf of my government I am committed to rectifying this situation. Last week and again yesterday I met with chiefs from all parts of the province to discuss an economic development package for Indian people. This package may not solve all of the problems facing us, but it will be a beginning.

In Saskatchewan we are taking positive and imaginative steps to foster economic development for all citizens, aboriginal and non-aboriginal alike. Everyone can and will share in our growth. The spirit of Saskatchewan, our spirit of self-reliance and self-sufficiency, will let us succeed. We believe we are first class and world class in everything we want to do.

I sincerely believe, and in this you and I are in agreement, that the development of self-reliance is the critical element in any effort to satisfy the ambitions of the aboriginal peoples. The paternalistic approach once used by Canadian governments has not worked in the past. That is clear. It merely fostered dependence and stifled individual initiative. That is no longer acceptable in Saskatchewan or in Canada.

We must move toward a situation in which Indians, Inuit and Metis are doing for themselves, but in a situation in which they have the means of doing for themselves and the means of defining and then shaping their own destinies.

In my mind, however, that does not mean sovereignty even though the case for it has been eloquently argued by the aboriginal spokesmen. But arguments do not change the facts. There is one Crown in Canada and two orders

of sovereign governments and those two governments speak for all people within their jurisdiction.

However, to rule out sovereignty is not to rule out self-government. There is no reason why Indians, for example, will not and should not enjoy greater autonomy and greater powers on the lands reserved for Indians. I think that some form of greater local control is not only desirable but inevitable. Like many others around this table, I am looking forward to seeing the report of the Parliamentary Sub-Committee on Indian Self-Government. I for one am willing to add my voice to that of the aboriginal representatives in encouraging the government of Canada to foster greater self-reliance and greater self-sufficiency.

As we all know, the government of Canada has special obligations, historical and legal obligations to the aboriginal peoples. The treaties and land claims settlements have established a relationship of trust between the aboriginal peoples on the one hand and the government of Canada on the other. I believe that it is fair to point out that the past decade or more has witnessed an alarming trend. We have all heard Indian leaders describe how this trust has been eroded. Over the past few years provincial governments have seen pretty hard evidence of the federal government withdrawing from services to status Indians, especially those who happen to be living off-reserve.

Mr. Prime Minister, formal trust obligations made to a people must not cease to exist simply because an individual leaves a reserve and I need not remind you, sir, of the arguments used during the last round of constitutional negotiations. At that time, the federal government argued

against the existence of too rigid provincial boundaries and barriers. You suggested provinces discriminated against those who may have crossed such a boundary to live, work or invest.

Well, with respect, I suggest that departments of the federal government are doing the same thing to the Indian peoples of Canada. Once they leave their reserves it is claimed that they are different than those who remain. Are they really different because they are less in need or less deserving of federal support? Are they any less Indian? I doubt that.

Mr. Prime Minister, I believe that it is important that we accept the trust, promises made in the past must be kept. Comments do not lessen because time passes. Commitments cannot be discarded unilaterally. Commitments cannot be eroded and we have heard all the legal arguments. We are fully aware that, as your lawyers put it, the Section 91(24) federal power over "Indians and lands reserved for Indians" need not be exercised, but this is no time for legal arguments. Not when Indian students in Northern Saskatchewan are facing the closure of their schools because of the withdrawal of federal funding. Not when special programs are required for Indians, both on and off reserves, and for the Metis. Not when Indians suffer because of senseless jurisdictional wrangles. Canada must respect its full obligation to Indians. Otherwise the future will be merely a perpetuation of the past.

I intend to discuss this issue throughout the course of the conference because it is important, perhaps the most important issue since it addresses the real problems

of real people on an everyday basis. Constitutions are important documents, granted, but constitutional rights as we have seen cannot by themselves resolve all our problems. We cannot constitutionally or legislatively eradicate poverty or unemployment. Today and tomorrow and even beyond we must look for the practical solutions plus common-sense solutions to these problems and not rely upon some constitutional panacea.

This is not to deny the importance of the constitutional issues on our agenda, such as the ongoing process. My government has already made clear to the aboriginal leaders in Saskatchewan that it is willing to agree to and participate in such a process. We view it as necessary if we are ever to resolve, one way or another, the issues raised by the aboriginal groups. I believe that most of the items in today's agenda will require further study and that the ongoing process is the proper forum for that.

For example, the Charter of Rights for the Aboriginal Peoples and the Statement of Particular Rights, I say these are too complex to settle today and will have to be worked out over time before we can cast in rigid constitutional form.

Saskatchewan will participate in this ongoing process and are proud to do so. We will commit the necessary resources to do it. We will be serious about it and look for positive results from it, but today we should examine first the nature of that process; second the principles that will define that objective, third the guidelines we will give to ministers and finally the best means of ensuring that the momentum which now exists will not be lost.

As well we have indicated our willingness to accept a consultation clause to ensure the participation of aboriginal peoples in any future amendment directly affecting them; but as we have stated before, we cannot agree to a veto. That would be inconsistent with our province's view on the nature of this country. Even though the aboriginal groups wish that veto, or a consent clause, they should not underrate the importance of a commitment to consult. That is a great improvement over what has existed in the past.

There are many more issues that have to be discussed today and tomorrow. We have to discuss the equality clause for aboriginal women, and some rewording of Section 42 which would allay the concerns of the northern territories and northern Indians. We should look seriously at a set of general principles to guide the ongoing process.

Saskatchewan will of course participate in the discussions and work towards a consensus acceptable to all. However, a consensus, by its very nature, cannot be perfect. It cannot completely satisfy everyone, but it is a beginning and Saskatchewan will try to be part of that consensus. We have our own views on the best means of proceeding on each issue, but we are willing, if others are, to participate in the give and take of this sort of meeting.

The government of Saskatchewan is sincere in its hope that this First Ministers' Conference will contribute to an improved life for the aboriginal peoples of Canada, and therefore all Canadians. For its part, Saskatchewan will emphasize that there is a national responsibility exercisable by the federal government on behalf of the aboriginal peoples of Canada. There is no need for constitutional change to assert that fact. What is required is the political will and perhaps a change in attitude. Indeed, I would caution against any obsessive concern for constitutional change. There may be easier and more sure ways of achieving the same goals.

I believe our meeting today can contribute to a more stable and solid set of relationships between the aboriginal and non-aboriginal peoples of Canada. Saskatchewan is willing to go forward from here to discuss further all issues of concern with the aboriginal peoples of the province.

Mr. Prime Minister, the governments of Canada exist & exercise their sovereignty solely for the purpose of ensuring, protecting and enhancing the good and well-being of

all Canadians, and that is a federal responsibility. It is because of this very fact we are here today to ensure, to protect, to enhance the good and well-being of some particular Canadians, Canada's aboriginal citizens, the descendants of the first peoples. If we do so, all Canadians will be better off.

There is much to do, Mr. Prime Minister, and one way or another we must make a start and begin that process. Saskatchewan is ready and we believe others are as well to pursue it. Future generations will expect no less of us.

Thank you, sir.

THE CHAIRMAN: Thank you, Premier Devine. I now call on Premier Lougheed of Alberta.

HON. PETER LOUGHEED (PREMIER OF THE PROVINCE OF ALBERTA): Mr. Chairman, fellow Premiers, territorial representations and leaders of aboriginal peoples.

I would like to start out to outline some of the background events which led up to this conference, which I think has been appropriately viewed as historic. Like most other provinces, Alberta had its first direct real involvement with the aboriginal constitutional issue in November, 1981. The federal government had previously held discussions with aboriginal leaders which led to an aboriginal rights provision in Section 34 of the federally proposed constitutional text.

That provision recognized and affirmed treaty and aboriginal rights. As a party to the consensus on the constitution in the fall of 1981, Alberta had to determine where it stood on the proposed rights provision.

Our difficulty, Mr. Chairman, was that the force and the scope of the aboriginal rights provision was unclear. The government of Alberta supported, and still does fully support

existing aboriginal and treaty rights. The proposed aboriginal rights provision was open to the interpretation, however, that it would create new aboriginal rights that were not previously recognized in law. Not having been part of the earlier discussion between the federal government and Indian leaders, the remiers on November 5, 1981, were not prepared to include any additional provisions without understanding fully what was being requested and the consequences of such requests.

Mr. Chairman, Alberta recognizes the importance of this issue to the aboriginal peoples of Canada. In November of 1981, we worked closely with the Alberta Metis leaders and others to develop an alternative wording which would satisfy our respective concerns. The present recognition and affirmation of existing aboriginal and treaty rights in Section 35 of the Constitutional Act, 1982, is the result of that cooperation.

I wanted to outline this recent history today, Mr. Chairman, because I understand that the inclusion of the word "existing" in Section 35 has been a subject of considerable concern among aboriginal representatives at the preparatory meetings which have preceded this conference. In response to the concern, I want to emphasize that the intent of the Alberta government in agreeing to the present wording of Section 35 was neither to freeze the legal status quo of aboriginal and treaty rights for all time, nor to deny any modern treaty or agreements between governments and aboriginal peoples the protection of Section 35. In effect, it was a commitment by governments to protect those aboriginal rights which exist now and to recognize those which may come into existence as a result of this conference.

Considering the background and without wishing to debate specific agenda items at this time, Alberta is unwilling to remove the word "existing" from Section 35. Any consideration of the removal of the word "existing" can only come about after an agreement has been reached not only on the definition of these rights, but also on a full understanding of their implications and their consequences.

Through the present Section 37 of the Constitution Act, 1982, governments made a commitment to the aboriginal peoples to meet with their representatives at a constitutional conference to pursue these matters further. This historic conference today and tomorrow and the meetings which have prepared the way for it have been convened in fulfilment of that commitment.

The time between November, 1981 and today has been well spent. To prepare for this conference the aboriginal peoples have focussed their attention on what it means to be a native person in Canada. They have also explained their views to governments and to the Canadian public. The awareness of the aboriginal constitutional issues is probably higher today in Canada than it has ever been. However, we still require a fuller understanding of the consequences and implications of many of the requests.

As a general framework for the First Ministers' conference, the government of Alberta recognizes the special place of the aboriginal peoples within the constitution, arising from the fact that they are descendants of the original peoples in Canada. Canada is the cultural homeland of the aboriginal peoples. In this context, the concern of the aboriginal peoples to maintain their distinct cultural identities is understandable and, in our view, is something that governments should support.

In past representations to the government of Alberta, treaty Indians have stressed the need to protect the

Indian heritage and treaty rights. The government of Alberta supports this objective of the Indian people of Canada to maintain their treaty rights and their special relationship with the government of Canada. This special relationship must mean nothing less than the obligation of the federal government to adequately support the Indian and Inuit peoples in achieving their goals and aspirations.

As a provincial government, Alberta's focus is upon its responsibility for the Alberta Metis. We have already made significant progress in Alberta with the Metis. As many of you may be aware, Alberta has provided a unique land base for Metis in the province in the form of Metis settlements established under the auspices of the Metis Betterment Act. Together these settlements comprise approximately one million, two hundred and fifty thousand acres. In addition, we have also established a Land Tenure Program designed to provide Metis and other Albertans residing on Crown lands in northern Alberta with secure land title, and we are in the process of discussing modifications of the program with the Metis leadership within our province.

Currently a joint committee under the chairmanship of the Honourable Dr. Grant McEwan, with government and Metis members, is reviewing the Metis Betterment Act with a view to making recommendations directed at political, social, cultural and economic development on the settlements. The Metis people of Alberta have a wide range of programs available to them. In addition, special funding in such areas as culture and education is also available. The government of Alberta intends to build on these

initiatives and to intensify its efforts on behalf of the Alberta Metis in the future.

Since the summer of 1982 we have also been involved in discussions with the Alberta Metis to prepare for this conference. Indeed, Mr. Chairman, representatives of the Metis Association of Alberta and the Federation of Metis Settlement Associations are represented on the Alberta delegation today and have been represented on the Alberta delegation at each preparatory meeting leading up to this conference.

In the course of the talks with the Metis within the province, many practical concerns were raised which the government of Alberta might be able to resolve through legislative action, new policies or modifications of existing programs. We have made a commitment to the Metis of Alberta to address with them their concerns and to develop solutions in Alberta. This on-going process back in Alberta is a priority for our government.

It is not our intention, however, to detract from the consideration of the aboriginal constitutional positions which is a matter the government of Alberta takes very seriously. What we have adopted are two complementary approaches. In our view, it is essential that every effort be made to arrive at mutually acceptable solutions, whether they be through constitutional amendments, legislation action, new policies or modifications of existing programs.

Mr. Chairman, this conference is providing all Canadians with a unique opportunity to learn first hand the aspirations and concerns of the aboriginal peoples of Canada. We, as governments, have accepted a responsibility to search for ways to accommodate the goals of the aboriginal peoples. The government of Alberta looks forward to participating

actively over the next two days in these discussions. May our deliberations be guided by a spirit of goodwill and understanding.

Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Premier Lougheed.

I now recognize Premier Peckford of the province of Newfoundland.

HON. A. BRIAN PECKFORD (Premier of Newfoundland): Mr. Chairman, it is significant that the first conference on constitutional issues since patriation is focused on addressing the aspirations of Canada's aboriginal peoples. While many of the other major constitutional issues we have discussed in previous conferences remain unresolved, this conference is, I believe, an acknowledgement of the unique place aboriginal peoples have in Canadian society. I believe it also reflects the genuine desire and willingness of governments to grapple with the complex issues involved in attempting to meet the aspirations of aboriginal peoples.

I am sure all Canadians understand the determination of aboriginal peoples to maintain their identity, enhance their traditions and culture and share in the economic benefits and wealth of this country. As I reflect on the issues before us, I must remind myself that the history and present situation of the various groups comprising the native population differs substantially from place to place.

In Newfoundland and Labrador the native population is relatively small, representing only about one-half of one per cent of the province's total population. There are approximately 1,600 Inuit which is six per cent of Canada's total Inuit population and about 850 Naskapi-

Montagnais Indians located in a number of communities in Labrador. On the island portion of the province the community at Conne River on the south coast has a population of approximately 580 of whom a large proportion are Micmac Indians.

While the province's native population is relatively small compared with other province's, this does not diminish our desire to address their aspirations and special needs. The government of Newfoundland is committed to the process that has begun here today. We approach these discussions in a positive and receptive manner and with a willingness to search for equitable solutions that will enable our native peoples to maintain their culture and language, to protect their traditional lifestyles, to benefit from and participate fully in the economic and social development of our province and country.

The history of relations between native people and the government of Newfoundland has taken a unique and very different course from developments in other provinces.

In the pre-Confederation era, no treaties were concluded nor were reserves established. Native people were not segregated from European settlers either by policy or legislation. Natives and settlers were treated equally by the Newfoundland government and by each other.

Native peoples in Newfoundland and Labrador were regarded as citizens with full and equal access to provincial programs and services. The federal government, notwithstanding its legislative authority with respect to indigenous people in other parts of Canada, had no desire to disrupt the status quo in Newfoundland. As late as 1965 the Prime Minister of Canada stated and I quote:

"The federal government does not want to

disturb the established arrangements for provincial administration of Indian and Eskimo affairs in Newfoundland."

Both the provincial and federal governments were particularly concerned that the traditional homogeneous fabric of the Labrador communities be respected. These communities are characterized by natives and settlers living side by side as equal citizens. A common lifestyle pervades the economic, social and cultural environment and within the community there is little distinction regarding access of all people to services.

It has been the consistent policy of Newfoundland governments not to differentiate between its citizens on the basis of racial or ethnic origin. This does not mean, however, that the province has not recognized the special problems faced by native peoples or prevented us from taking special measures to address these problems.

Between 1954 and 1981 a series of exchange-of-letter arrangements were concluded, whereby the federal government made a financial contribution to services provided by the province in a number of Labrador communities. Administration was in the hands of provincial authorities. The tripartite committee which included community representatives as well as representatives of the two governments, advised the provincial minister on program planning and funding allocation. These arrangements originally applied only to Labrador communities with Indian and Inuit populations.

In 1973, however, the community of Conne River was also included in the general agreement and in 1981, the exchange-of-letters arrangements were replaced by formal native peoples' agreements. Throughout the negotiations

and implementation of these agreements there has been a concerted effort by both governments to avoid ethnic divisions within the communities.

The same willingness to accommodate the goals of native people by us is also expressed in our approach to the issue of land claims. In October, 1980, the government of Newfoundland and Labrador announced that it considered the Inuit and the Naskapi-Montagnais in Labrador had a basis for comprehensive aboriginal land claim under the 1973 federal government's land claim policy and we stated we were prepared, in conjunction with the federal government and the native organizations, to enter into tripartite negotiation of these claims.

Mr. Chairman, the government of Newfoundland and Labrador reaffirms its previous commitment to negotiate an equitable settlement of the Labrador claims and we will approach these negotiations in a positive manner, cognizant of the special relationship of our people to the land and the adjacent sea.

I am also prepared today to make a further commitment with respect to land claim settlements. When land claim negotiations are successfully concluded and an agreement is reached, the province of Newfoundland would be willing to have these settlements entrenched in the constitution and to agree also that no changes will be made in these agreements without the consent of all parties concerned.

Many of the items on the agenda for discussion today, title to lands, hunting, fishing and trapping rights, the preservation of language and culture, delivery of government services and others, will be subjects for negotiation

within the context of land claims settlement.

Therefore, while I understand the desire of the aboriginal organizations to have a charter of rights of aboriginal peoples in the constitution, a great amount of effort must yet be undertaken to define what these rights are before they can be entrenched. It may well be that a number of such issues will be dealt with in the context of land claims settlement.

Mr. Chairman, the government of Newfoundland and Labrador is prepared, however, to consider entrenchment of a statement of general principles which could serve as a guide in the on-going process and could form the basis for development of more specific provisions for either inclusion at some future date in the constitution or in legislation or in a land claim settlement. This approach would, I believe, represent a major step forward and could provide a base to build on for the future.

The government of Newfoundland is firmly committed to the principle of equality of people, regardless of origin, creed, belief or sex. We fully endorsed the provisions in the present Charter of Rights and Freedoms that guarantee equality of rights for men and women and would support an explicit provision that would ensure aboriginal rights apply equally to men and women.

The proposal for a constitutional provision for consultation of First Ministers with representatives of the aboriginal peoples before any future amendments are made that directly affect aboriginal rights, will ensure, I feel, that aboriginal peoples will be fully involved in any changes that are proposed. The province of Newfoundland, therefore,

would support measures to provide for consultation with aboriginal peoples in constitutional changes directly affecting their rights.

Mr. Chairman, the list of agenda items before us in this conference is long. All are important and complex and are not susceptible to easy resolution. The discussions that have taken place in preparation for this conference have helped to clarify these issues and contribute to a better understanding of the concerns and aspirations of aboriginal peoples. A good beginning has been made, but it will not be possible to deal satisfactorily with all these issues within the next day and a half. This process must not, therefore, end with this conference. It is clear that other meetings of officials, Ministers and First Ministers will be necessary.

Newfoundland supports continuation of the process that has begun, recognizing that it is only through on-going dialogue and negotiation can the concerns of our aboriginal peoples be properly addressed.

I believe the position we have taken on the issues before us today reflects our serious commitment to this process and lays a foundation that, with reasonableness, co-operation and the political will of all participants will enable aboriginal peoples to maintain their culture, traditions and identity and to participate fully in Canadian society.

Thank you very much, sir.

THE CHAIRMAN: Thank you, Premier Peckford. I now call on Mr. Chris Pearson of the Yukon.

HON. C.W. PEARSON (GOVERNMENT LEADER, YUKON):
Thank you very much, Mr. Prime Minister.

I want to start by saying how pleased I am to be here on behalf of the people of one of Canada's great territories, Yukon.

I feel that the elected representatives of the Yukon are morally entitled to attend all national constitutional conferences convened in this country. We have a representative responsible government of our own, and as soon as the federal government sees fit to grant it to us, Mr. Prime Minister, we are ready to take on greater responsibility. As the democratically-elected government of the territory, responsible and accountable to the people of Yukon, we are prepared to assume a much broader role.

At the national level too, our participation depends upon the support of the federal government and on the goodwill of our provincial colleagues. National constitutional concerns are our concerns as well. After all, Yukoners are Canadians too.

Mr. Prime Minister, I would respectfully ask that Yukon be included in any future constitutional meetings so that the views and concerns of Yukoners can be expressed in the same manner that the views and concerns of other Canadians are expressed by their elected government representatives. We are very much aware of the fact that decisions made at constitutional conferences will have significant long-term effects on our future.

Equally important in regard to this conference, aboriginal concerns are fundamental to Yukoners. In Yukon,

twenty per cent of us are aboriginal people. Yukon Indian people have a heritage that may be the oldest on this continent. Yukoners today are discovering this heritage. Yukon and all of Canada are the richer for it.

At the planning sessions for this conference, there has been discussion of possible guarantees for aboriginal people. We have been working toward a whole regime of special guarantees and other benefits for the Yukon Indian people. For almost ten years now, the government of Yukon has been working with the Council for Yukon Indians and the government of Canada towards a settlement of the Yukon Indian people's claim. There have been some setbacks - and great challenges still remain - but I am confident that we will succeed.

When we do succeed, the Yukon Indian Land Claims Settlement will be a settlement that is tailored especially to Yukon conditions. It will apply equally to those status and non-status Indian Yukoners who have an aboriginal claim. The guarantees will extend to many areas within Yukon's constitutional jurisdiction.

My government will be bound by these guarantees.

In this national forum, the government of Yukon is prepared in principle, to consider proposals that would give full constitutional protection to land claim settlements and treaty rights. We would support the view that principles or rights which are recognized at the national level should be flexible enough to allow for regional accommodations across the country. Beyond this, we are prepared to give serious consideration to all proposals suggested at this conference in light of the desires expressed by the aboriginal peoples themselves and community interests as a whole.

Finally, Mr. Prime Minister, let me suggest that we, as governments, would be seriously misleading the Canadian public if we were to leave the impression that the concerns and aspirations of Canadian aboriginal people can be resolved entirely by constitutional provisions, or in the conference centres and courtrooms of this country. More than constitutional provisions will be necessary to promote increased understanding and goodwill between aboriginal peoples and the other varied groups who make up this country.

Last, but not least, more than constitutional provisions will be necessary to ensure in practice that aboriginal people, like other Canadians, have decent shelter and good health, a fair chance at employment, and a good education which respects their cultural values. However well-intentioned, our constitutional endeavours could be sadly counterproductive if they should cause us to lose sight of these historical, social and practical realities.

Thank you, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Mr. Pearson.

Finally we will hear from Mr. George Braden of the Northwest Territories.

HON. GEORGE BRADEN (MINISTER OF JUSTICE AND PUBLIC SERVICE, NORTHWEST TERRITORIES): Mr. Chairman, Premiers and leaders of aboriginal Canadians, the discussions which we are beginning today are of great historical importance to all Canadians. It was less than a year ago that Canada patriated its constitution. The 17th of April, 1982 was a day of celebration in this country, but for the aboriginal people, patriation of the constitution did not resolve the burning issues which they deemed critical to their survival as proud and distinct peoples in the mosaic we know as Canada.

Today for the first time, the aboriginal people through their elected representatives, have been afforded an opportunity to meet with the First Ministers to address these matters which are of such grave concern to them.

This First Ministers' conference is also significant in that it is the initial opportunity for the governments of the Yukon and the Northwest Territories to participate in the constitutional process. For the first time, due recognition has been given to approximately 70,000 residents of this country by allowing them, through their elected government representatives, to take part in a conference dealing with constitutional matters which affect them as Canadians. The government of the Northwest Territories is pleased to be able to participate in these talks which are of such fundamental importance to the aboriginal peoples of this country and it would be my hope, Mr. Prime Minister, that this conference will mark the beginning of a trend that will see territorial participation in all future constitutional meetings.

Mr. Chairman, the government of the Northwest Territories brings to this conference a unique perspective. The majority of the residents of the NWT are aboriginal people and this fact is reflected in the composition of our Legislative Assembly.

In addition the Metis are recognized as aboriginal people in the north and they are currently negotiating "The Dene, a Comprehensive Claim. Because of its unique status, the government of the Northwest Territories is able to bring forward a viewpoint perhaps somewhat different from that of any other government of Canada and it has a special responsibility to see that the case of the aboriginal people of the north is put forward. I feel that our government will be able to assist in the resolution of these important issues which the aboriginal delegates have brought to the table for discussion.

Mr. Chairman, we are today embarking on a task that is of the utmost importance to the aboriginal peoples of Canada. As the aboriginal peoples of this country, the Indian, Inuit and Metis people are entitled to special rights over and above those enjoyed by other Canadians. The Constitution Act, 1982, recognizes the special status of our aboriginal people and establishes this First Ministers' Conference as the vehicle to identify and define aboriginal rights for inclusion in the constitution.

I recognize that the job before us is not an easy one. The aboriginal people of Canada have long sought a resolution of the complex issue of aboriginal rights. It will require a great deal of hard work both at this conference and in the future to adequately address some of the more difficult issues, but I believe that it is of fundamental importance that the delegates approach this conference with a spirit of understanding and cooperation. It would be my hope that during the course of the new two days, we will be able to accommodate divergent viewpoints and reach a consensus on matters of substantial importance to aboriginal people.

It is unlikely that the aboriginal leaders will achieve all they had hoped to accomplish in these two short days of talks. Time is limited and the agenda is comprehensive, but this conference should be viewed as a very positive beginning towards the final resolution of these long outstanding grievances which have been a source of frustration to the aboriginal people of this country since well before Confederation.

Mr. Chairman, I believe that we, as the elected leaders of the governments of this country, have a deep and abiding

responsibility to address these issues in a meaningful way. The discussions which we undertake today will have far-reaching implications for all the people of Canada. For centuries, the aboriginal people of this country have suffered injustices and we have been given the opportunity to seek to redress some of these wrongs. We have been entrusted with the obligation to work toward providing a just and equitable treatment of the rights of the aboriginal people and the entrenching of these rights in the constitution. We must be cognizant of this responsibility and work with aboriginal leaders to reach a consensus on some of these matters today to lay the foundation for a continuing dialogue in the future.

It is sometimes said that the true worth of a country may be measured by the way in which it treats its minorities. This is especially true when the minorities are a country's aboriginal peoples. The degree to which we live up to the commitment made to the aboriginal people in the Constitution Act, 1982, will to a large extent reflect the moral fibre of this nation.

The aboriginal people have valid rights based on the usage of land from time immemorial and their aboriginal status. Past history has shown that in areas where treaties have been signed, aboriginal people often received inadequate compensation for their land and the rights which they acquired under these treaties have, in many instances, been eroded or diminished by legislation. To provide protection for aboriginal rights, they must be clearly defined and entrenched in the constitution. Moral considerations demand that a liberal and generous interpretation be given to these rights once they are given constitutional recognition. Canadians will only feel exonerated for the past treatment of the aboriginal peoples when the rights of these peoples are recognized, respected and given the highest protection from further trespass.

Mr. Chairman, much valuable work has already been done by our Ministers and officials in preparatory meetings with aboriginal leaders and I believe that because of those efforts, all of us here today have a clearer idea of the meaning of the topics which the aboriginal people have put forward. The convening of this First Ministers' Conference has created a tremendous public awareness of the issues involved in the question of aboriginal rights. An agenda, jointly submitted by the three aboriginal groups, has been recommended to the First Ministers as the working document of this conference. We must now seek to build upon the previous accomplishments of our Ministers and officials with a view to leaving the conference tomorrow afternoon with an accord to take back to our legislatures. This accord will serve as the basis for a resolution to provide for constitutional amendments in the areas of aboriginal rights.

If our constitution is to be a model for emulation and regarded with esteem by Canadians, it must provide for an honourable and equitable treatment of aboriginal rights. To assist the native people to maintain their dignity, to increase their self-sufficiency and to enhance their rights as a collectivity means extending to them constitutional guarantees and protection. We must approach these talks with fresh insights and an understanding of the goals and aspirations of the aboriginal people.

Mr. Chairman, the government of the Northwest Territories looks forward to actively participating in the discussions at this conference. I am sure that with a spirit of goodwill, mutual respect and the political will to succeed, we can make substantial strides toward the

resolution of these major issues which have been identified by the aboriginal people as being so critical to them.

Thank you.

THE CHAIRMAN: Thank you, Mr. Braden.

Well, the round of opening statements having been completed, I think now we should turn to the agenda proper which as you know is divided into six items, several with subsections. I am grateful to all participants to have agreed on this agenda which I think was the result of a consensus between the representatives of the aboriginal peoples. It will make my job as Chairman a bit easier in that we have agreed to this agenda.

I would propose to follow it in the order in which it appears. It is not my purpose now to make any summing up of consensus or lack of consensus which appears from our opening statements, but once again we must keep in mind the importance of making progress before we adjourn tomorrow night, although just everyone was agreed that there should be an on-going process. If we could make some progress, even to the point of agreeing on the wording of constitutional amendments, it would be more satisfying than just going away with a certain degree of agreement on specific points but no wording to put it into the constitution and that is why tonight's meeting once again of the Committee of Ministers and aboriginal representatives, chaired by Mr. MacGuigan, is important.

There has been an effort made at least by us to supply the meeting with a form of words in the form of a draft resolution, a proposed resolution to authorize His Excellency the Governor General to issue a proclamation

respecting amendments to the Constitutions of Canada.

In there we tried to touch upon some of the areas that many of you had indicated agreement on, for example, the on-going process itself, the principle of equality, the statement of principles. These ideas have come back again and again and many texts have already been tabled. I would hope that we would be able to work from these various texts and arrive at a resolution and that is why we have drafted a resolution. It is not meant to pre-empt discussion. It is of course amendable and changeable, but once again it expresses our hope that we will come out of here tomorrow night with at least a text that we can go back to our Legislatures with.

So then I turn to the first agenda item being the "Charter of Rights of the Aboriginal Peoples" and I am told it does reflect a common position of the three aboriginal associations. The intention would be, if I understand it well, to expand that into a Part II of the constitution which would be entitled "A Charter of Rights of the Aboriginal Peoples". I don't think we have to decide now where it should go, but I think we should proceed with the discussion of that and in chairing the meeting I would think it useful if you allowed me to permit delegations to talk to any of the sub-items, because I think that charter is seen as a framework for future action and a guidance to future discussion amongst ourselves and that is why it would include eventually a preamble, some specific adjustments to the present Section 35, then a listing of particular rights which are not all the same for each of the aboriginal peoples. Then a provision to achieve equality of application between men and women. Then the agenda sub-items refer to the need for

appropriate enforcement and interpretation procedures.

So, if you will, we should perhaps decide to discuss the item as a whole rather than subdivide it artificially and have everyone return to speak on particular sub-items.

I think it might be useful too if we agreed to discuss the notion of a charter first and then the content itself. I gather from several interventions this morning that many are prepared to accept the notion of a charter in which we would identify and define the aboriginal rights and other treaty rights, but they don't think we can between now and tomorrow night spell them out in any detail, so in your interventions it would be useful to indicate if your objections are to a charter per se, or whether it is to a precise wording of a charter now and in that way we will be able to, I think, reach conclusions more easily.

So I call for any interventions by anyone who would like to speak. Mr. Watt of the Inuit Association.

MR. CHARLIE WATT (Co-Chairman of the Inuit Committee on National Issues): Mr. Prime Minister, upon highlighting the fact that certain specific rights that have to be dealt with, we do agree to dealing with these specific rights and we would also like to talk on the Charter of Rights and trying to accomplish as much as possible between now until the adjournment of this meeting and I would like to suggest that in regards to the on-going process if we can make a commitment that the on-going process will definitely be dealt with tomorrow morning. I think that would be necessary.

THE CHAIRMAN: Well, yes, we certainly will wait to discuss the on-going process at least tomorrow morning, but I

don't think we should preclude the possibility that some would want to talk about it tonight. Certainly in our draft resolution we have included wording for the on-going process that we would hope that tonight's meeting would look at, but I agree with you that we should perhaps begin with particular emphasis on the rights themselves.

Another point I suppose is that there is a confusion between the statement of principles as a guidance for all of us in the on-going process or a statement of principles in the sense of a statement of aboriginal rights themselves. From what I gathered in listening to the several delegations of provinces who talked about statement of principles, I understood it to be more a statement of principles in order to guide us in our discussions rather than a statement of aboriginal rights which could be finalized today or tomorrow and I must say that is also our understanding of the word "principle".

MR. CHARLIE WATT: Mr. Prime Minister, if I might be permitted to continue, in regard to the proposed recommendation that was put forward by the federal government in regard to a statement of principle. I do believe the statement of principle which has been outlined here could also be considered as a preamble. If that is the case it might be premature at this point without having dealt with specific rights, knowing exactly what kind of a preamble you might have in order to meet the discussions for the entrenchment for the future purposes. That is another item I would just like to mention to you, Prime Minister.

THE CHAIRMAN: I agree with that, Mr. Watt, that we could not write a preamble until we know what we are

preambulating to and that is why we are talking of a statement of principles which could become part of a preamble, but we are not putting it forth as a preamble

MR. GEORGES ERASMUS (North Region, Dene Nation, Assembly of First Nations): Mr. Prime Minister, delegates, the First Nations would like to clarify what we mean by a Charter of Rights, Principles, et cetera, and we have to go back to our approach to the present constitution. What we think was accomplished with the present 35 was that aboriginal and treaty rights were recognized in Canada. They are recognized now.

What the work before us now is is a look at how those rights are going to be implemented. , Further, because the rights were entrenched in a very general clause, it would not hurt to make a recognition of rights more explicit. When the First Nations began participating in the working sessions, we began using the term "principal rights" and what we were trying to do was begin to elaborate what we feel you have entrenched in the Canadian constitution in a general manner, making it explicit. That is what our original intention was. We wanted to assist in the process of making clear what we think is now protected by the Canadian constitution.

That idea was turned around on us to be something considered in the ongoing process and principles to guide the ongoing process and, as we stated in the working sessions, we might be prepared to do this, but we would do it extremely cautiously, primarily because we would not want the ongoing process and the principles guiding the ongoing process to mean that what had been entrenched a year and a half ago was an empty box and, in fact, there are no existing rights in Canada and only the ongoing process is going to define rights, and we are still moving towards entrenchment.

It is our belief that entrenchment has happened and it is a general clause, it has disadvantages, but it also has a lot of advantages because it is general. So, the reason we are cautious about principles for the ongoing process is that we are not prepared to give up any rights by saying that a certain specific right will only be discussed in the ongoing process and because we are going to be discussing it in the ongoing process, it means the general clause that is in the constitution now does not cover that right, in the same way in which we think self-

government is already entrenched. If we were to put self-government as one of the principles that we would look at in the future, we would not want it to mean that we were here all agreeing and we are going to discuss self-government to be entrenched some time in the future; there was no possibility of it already being entrenched. I am taking the time to do this because we have tried to make this point clear three or four times at this table and I don't think that people have been hearing.

THE CHAIRMAN: Mr. Erasmus, I think we have been hearing it and certainly I heard Premier Davis this morning, for instance, say something which I had said in a different way, but that the constitution does entrench those : aboriginal rights and they are not defined. As Premier Davis said, you could go to the courts and the courts would then define them. I think I understood you to say that this morning and that is true.

HON. WILLIAM DAVIS: Yes.

THE CHAIRMAN: But Premier Davis added, and I think that that is the consensus of most of us since we are here, that it would be better if we could define them through the political process to be followed by the constitutionalizing of whatever we agreed to. So, in that sense, I think you can take whatever assurance I can give as Chairman, that the fact that we are going to discuss things in the ongoing process does not mean that they do not exist already, it means that we are trying to put precise words on what you call rights, what maybe the courts will define differently than us, if you wait for the courts to make the decision. Take aboriginal title. Will the courts, if you go to them, will they say, "Well, that only applies to hunting and trapping," or will it say it has something to do with water rights too, or with sub-soil rights? I don't know, but the fact is that we are going to attempt in the ongoing process to define them more precisely.

It is the same thing with self-government. Some of you this morning were using self-government and others were speaking of self-determination. What do we mean by "self-government"? Certainly we don't mean self-determination and but we think, and that is what I said in my speech, there is some way in which traditionally the Metis, the Inuit, the Indian people have governed themselves within their tribes or groups or communities, but this is what we will attempt to define in the ongoing process.

I can give you the assurance as far as I am able that you don't have to worry that the ongoing process will efface any rights, but what it may do is define them with a precision that you may or may not agree to. If you don't agree with it, then I suppose you can always go to the courts and if you do, then we will have an amendment.

HON. WILLIAM DAVIS: Mr. Chairman, just to try and be helpful and so that we don't get sort of hung up on the semantics of what we mean, if we consider some alteration to Section 37 or a statement of principles to give some focus, if we could contain in that, Mr. Chairman, as part of the ongoing process, that nothing we say in Section 37 derogates -- if that is the right legal word -- from what exists in Section 35 so that the point that you are making, sir, would be that what you believe is now entrenched in the constitution would not be altered, but that what we would be seeking was a better definition which hopefully we would agree to as a group, as to that some of those rights may be. I would have to give way to the Attorney-General as to how one might phrase alterations to Section 37 which said very simply, apart from whatever else it might contain, that nothing in that derogates from the existing entrenched rights in Section 35. Now, that is only, hopefully, a constructive suggestion to meet the point, Mr. Chairman, that has been made and so that you would not have that concern.

MR. GEORGES ERASMUS: If I could be allowed, I think that something along this line would be a movement in the right direction, obviously, and also one additional possible kind of condition that one would put on the principles would be that by agreeing to an agenda or a listing out of principles that would guide the ongoing process, that we would agree and put it in the change to the constitution that because the agenda did exist, it did not in any way derogate from what is already entrenched and that it could not be used in court to mean such.

So, that would to me be the second part of the condition.

THE CHAIRMAN: I think you are going beyond what you said in the first case. Obviously if we agree to define a right and then entrench it, it will mean what we say it means and it is certain that if you define certain aboriginal rights and say that those are them, that will be what it is. The alternative, as I was suggesting, is that you don't ask the politicians to define the rights, you ask the courts to do it. However, the result would be the same and once the courts said that these are the aboriginal rights and these are what they mean, then that is what they mean.

MR. GEORGES ERASMUS: That is not the concern, Mr. Prime Minister. The concern is in the interim, once we have say, set up an agenda of items to be resolved or clarified, whatever you want. We would prefer to use the term, you know, ways in which our rights could be implemented. That is what we would prefer to be involved in. We think that the ongoing process should be to one possibly further define what Section 35 means, but mainly to concentrate on how it should be implemented.

The only point I am making is that we want to be extremely cautious that by agreeing to an agenda we are not saying that those items on the agenda are not covered by the present 35. That is the only thing. We will want to be very careful with the language and maybe the point has been made, I don't want to flog it to death, but that is our concern.

THE CHAIRMAN: Well, okay. Then let's ask the group tonight to try and satisfy that concern. I think we understand what you mean.

MR. CLEM CHARTIER: My understanding --

THE CHAIRMAN: Mr. Chartier.

MR. CLEM CHARTIER: Thank you, Mr. Chairman.

My understanding of why we are here, we are dealing, I take it, with agenda Item No. 1, but first of all I would like to state for the record that the aboriginal peoples that did, I suppose, by consensus, agree to this, excluded the Metis National Council. We have looked at it and we have no great problem with it and we are willing to work within, you know, this general framework with respect to just one, I suppose, substantial -- people might call it deviation, but we call it something very peculiar to us and something very necessary. In that context, the Charter of Rights is basically an expansion of Part II, the current Section 35 in which the existing rights, aboriginal treaty rights, are recognized and affirmed. A lot can be read into that and we are reading a lot into it. Of course the courts may more narrowly define that and that is always the danger that we face.

That aside, the Metis feel that there is latitude within there to have the existing aboriginal and treaty rights recognized. The argument is there. We are not opposed, however, to seeing the word "aboriginal title" put in, the term "title" so there is no confusion as to what is meant by aboriginal rights. Some people say aboriginal rights and title is the same. If that is not correct, title should go in there so that there is no confusion.

On the other hand, the Metis have always felt, as was stated this morning, have always felt that they are the rejected people. As a consequence when there is discussion with respect to lands for aboriginal people it has to be implicitly clear that the Metis have the right and will have the opportunity to specifically discuss a land base for the Metis and that of course is something that we would want coming out of this conference, the opportunity to do that.

That aside, the rest of it deals with -- the Charter of Rights agenda item has quite a number of sub-items, statement of principles. Again I believe you have offered some principles that could guide us. We have tabled some. We will have to look at those over the course of the evening.

It is also, however, important that the equality clause be looked at. We firmly believe that the equality clause must go within the aboriginal peoples section. It is arguable that the equality clause in Part I, Charter of Rights and Freedoms, may not go as far as it should with respect to aboriginal women and we want to be totally sure that they do have protection, not only aboriginal women, aboriginal children and other people within the aboriginal spheres that do need protection and, of course, we also require enforcement of rights,

that has to be specifically set out in Part II, enforcement, and some method of guarantee.

Throughout your charter, which I imagine in a way envelopes us, but I don't think we have embraced it fully as of yet, your charter has throughout it the word "guarantee". We want that to, you know, appear in our charter as well.

On that basis I think we are quite prepared to get involved in the discussions with respect to all of the items on this agenda, knowing full well we can't do total justice at this meeting and we do want and will press for an on-going constitutionalized process.

Thank you.

THE CHAIRMAN: Thank you. Well, if I can give you the assurance you request, Mr. Chartier, certainly your understanding of the agenda is one that the Chair, I would say, is correct, because it does specify aboriginal title, equality and enforcement. Therefore, you will be perfectly in order in the on-going process to discuss these.

You mentioned also land base which is particularly important for the Metis. I can't speak for the other delegations, but I certainly would think it proper that you discuss that as one of the principles or rights in the on-going process and I don't think anyone around the table, I see no one objecting to the Metis delegation's raising that question in the on-going process, the question of a land base for the Metis people. -

I don't know how it will be solved, but that it be in order to raise it, I think I am speaking on behalf of everybody to say it would.

MR. CLEM CHARTIER: We are not looking for any immediate commitment, that can come later. We just want the opportunity to discuss it. Thank you.

THE CHAIRMAN: Mr. Erasmus?

MR. GEORGES ERASMUS: I noticed in your opening statements that the perception of the government of Canada is that the present 35 actually includes aboriginal title. That is also the position of the First Nations.

I wonder, since we both agree, that indeed within the present wording of 35 title is already included, could we make it explicit and add the term "title"?

THE CHAIRMAN: Well, you are now raising a specific amendment to Section 35(1). As the Minister reminds me that has always been our position that title is included, but I am not sure about the position of other delegations and if they want to include those words, well and good, but if not it would go into the on-going process.

MR. GEORGES ERASMUS: I wonder if we could ask some of the provinces what is their opinion on this, inclusion is to 35.

THE CHAIRMAN: Well, I guess it really depends what you mean by "title". If, you know, and I am serious, I gave you the example earlier, if by "title" you mean hunting rights or gathering rights it is another kettle of fish than by saying you own the top and the bottom and underneath and what goes out to sea and if it is the latter then I am quite sure that we and certainly some of the provinces will want to know what you mean by title before agreeing to it. You have already got words, aboriginal rights, which are to be defined. If you are trying to define them further by putting in the word "title" let's hear what you have in mind and then we will see if we can all agree.

MR. GEORGES ERASMUS: I tried to explain

earlier that by expanding 35 we weren't trying to define our rights and I am glad we are having this conversation because I don't think I was understood a little bit earlier.

I think the on-going process has to deal with the clear implementation of rights the manner in which title will be clearly recognized.

Now, the government's position is that title is there. It is our position that title is there. What are we going to do about it?

THE CHAIRMAN: Title to? Is it the deer that are roaming or is it the gold under the ground?

MR. GEORGES ERASMUS: I have a spokesperson here who wants to deal with that and I will just surrender the chair.

THE CHAIRMAN: Is Mr. Gosnell asking for the floor now?

MR. JAMES GOSNELL (Chief, British Columbia Region, Assembly of First Nations): Mr. Chairman, I think we have come right to the point as to why we are here and I am glad that you have given me the opportunity to speak and to try to make the government and all the Premiers and all of the people of Canada be aware of what do we mean by aboriginal title.

All right, first of all, we have to know do you have title and if you do, who gave it to you? How did you get your title? I think this is a very important point when we talk about title. I know the question is going to be asked, who gave you the title, so I will answer that question to begin with.

It has always been our belief, Mr. Chairman, that when God created this whole world he gave pieces of land to all races of people throughout this world, the Chinese people,

Germans and you name them, including Indians, so at one time our land was this whole continent right from the tip of South America to the North Pole, it was all Indian land, the whole continent until Columbus got lost at sea, of course, and that changed history and that is why we are here. If he hadn't got lost at sea I guess this conference wouldn't have been here. All right now.

Our land started eroding by this and that and so on. So when we talk about title, we are talking about our land ownership and I want to make it very clear so there is no misunderstanding when we say "aboriginal title". Don't get mixed up with aboriginal title and aboriginal rights, they are two different things and you cannot have aboriginal rights unless you have the title. This is our interpretation. When you have the title, your rights flow from the title, your aboriginal rights flow from the title and I said, "Where did you get your title?" It has always been our belief that God gave us the land, the lands that we are talking about and we say that no one can take our title away except He who gave it to us to begin with.

Now, the title as we talk about it, the aboriginal title is our ownership of this land and if you want me to put it like, lock, stock and barrel or total ownership, whether it is the mountains, inside the mountains, up in the air, the snow, the sea, you name it, subsurface rights and everything that there is in that land was given to us by God for our use to survive. This is the way we believe it to be, the question of aboriginal title.

So if we are going to be talking about our land we have to talk about our title, because if you do not talk about our title, we are talking about nothing. Without the title,

that is why we are here. This is our title, Canada, the whole of Canada is our title and then it is subdivided here, there and so on and some of the lands have been negotiated and others haven't.

So how do we get the title? I don't know how much time I am given here to really go into detail as to how we really break it, how do we define it -- how do we define the title?

Now, the title is held by each family and I am talking about the Nishka Tribe now. Each tribe holds certain sections of the land. As you are aware, we are talking about five thousand square miles and I am using this as an example, it is only a small piece of land in comparison to other tribal claims, but each family has a section of that five thousand square miles and there is a head, a head man in that family. The land is owned not by individuals, but by family ownership. It is one head to each family. So when the head chief dies the next, the successor has to put him away and large amounts of money is spent to put this chief away so he can rest properly. That is when the deceased's title is then placed on the new chief. That is what we call title.

So, when he calls the name, chief who, chief blank, whatever the name is, that title is then bestowed on this chief, he now becomes the head of the family and so he owns what, some chiefs own one mountain or two mountains or maybe two mountains and a creek which has salmon in it and so on. So, he has title to that land, but he does not own it individually, it is owned by the family. So, when you put the whole works together, and I am using the Nishka tribe as an example, but the whole thing becomes our title, and this is what we are talking about.

I have with me and I don't know if it was distributed or not, but the B.C. Indians' position and this is generally throughout British Columbia, so when we talk about title, it was agreed in our meetings in British Columbia about a year ago that in this conference we would be talking about title, aboriginal title and that our definition is as I have said it, we are the true owners of British Columbia, even at this moment, because no one has taken our title away to that province, even though it said so, but no one has. There is no legal evidence about this and we are dead serious when we give our position in this conference about our title.

So, the question of aboriginal rights then in British Columbia and there are approximately 25 or 30 different tribes in the province, and it was agreed that each tribe will define aboriginal rights as to how they see or how they feel about these rights, aboriginal rights.

You can't have aboriginal rights without the title, first of all. I could go on and on and on and on to define aboriginal rights and aboriginal title, but I don't know how much time I have here and if you want to sit here until tomorrow morning,

I am willing to tell you. It is very complex, but I have given you the overall picture of what aboriginal title is all about. That is what we have, that is what we have in British Columbia and it is my instructions to put it forward, that aboriginal title is what we are talking about and that is the B.C. Indians' position, and we are prepared to talk about our title when we are talking about land claims. There is no getting away from this land claims, it must come one way or the other.

So, with that in mind, Mr. Chairman, I believe I have given you a very broad interpretation of what aboriginal title is, but that is putting it in a nutshell; we are the true owners of the land, lock, stock and barrel and that is what it means.

THE CHAIRMAN: I understand Mr. Gosnell, but the Nishka are presently now negotiating, I understand, with the government of British Columbia as to define where your title runs. Is it two mountains or three or whatever, because as you say, there are some other twenty-five or thirty tribes and of course when you talk about the North Pole to the tip of South America you are talking about the hundreds of different tribes and groupings. I mean some are Inuit and others are Inca and so on. So, you have to sit down and discuss with someone what that title is, and I take it that that is what we are going to be doing in the ongoing process. You may reach agreement with British Columbia and it will define what that title is and then once you have done that, if you want to put it in the constitution, I don't suppose we would have any objection, but that is a good example of the task in the days and months ahead.

MR. JAMES GOSNELL: That is what we mean, Mr. Chairman, when we talk about title. We say there is no way that we in British Columbia can settle the land claims unless this title is recognized first because we have to have a base upon which to negotiate.

THE CHAIRMAN: But you are settling it.

HON. L. ALLAN WILLIAMS (ATTORNEY GENERAL, BRITISH COLUMBIA): Officials of the government of British Columbia together with officials of the government of Canada have, since 1976, been involved with Mr. Gosnell and the Nishka tribal council; first of all in an attempt to identify the elements of the Nishka claim, and this discussion you are having today with Mr. Gosnell and he is well qualified to advise us with regard to title, has been part of the those discussions, and whether in the fullness of time the government of Canada will be able to reach a level of understanding with the Nishka people, with which the province can participate and have a settlement is yet too soon to say but what Mr. Gosnell has said about the Nishka position regarding aboriginal title is certainly clear to us from the discussions, it is fundamental to the Nishka tribal approach to all of their aboriginal rights. If Mr. Gosnell were to go on, I think he would tell you, and he will correct me if I am wrong, but that flowing from this ownership of this area of land which they identify is their self-government, because the chief and the family or families who control the totality of the 5,000 square miles, use that authority in order to adjust the affairs amongst their people within those lands.

After you have resolved that with the Nishka, and of course it also supports their institutions as well, and when you have reached that with the Nishkas then you go to the adjoining Indian nations, the Carrier, the Gitskan, the Toltans and on throughout the whole of British Columbia and you find that similar arrangements exist for their self-government based on what they say is their ownership of the land and it is complete.

It is the land, what is under it, the rivers, the fish in the rivers, the birds that fly in the sky. They make no distinction. Therefore, when we talk about constitutional change where we put in the words "aboriginal title" I think there has to be the clearest understanding on our part of what that means to the aboriginal peoples because at some stage, even if we put in the simple words "aboriginal title" there will be a question raised which our courts will determine as to "What did you mean by title" and as you said Mr. Prime Minister, "Is it hunting, fishing and gathering?" but Mr. Gosnell says no, it is something much more fundamental to that and it is something upon which their whole nation exists, their whole system.

If I may suggest, Mr. Prime Minister, this is one of the areas of discussion which we have not had over the past several weeks. We have blandly talked about aboriginal title but no one has enquired and it is essential that we know and that the aboriginal peoples tell us what they mean when they say aboriginal title before we would attempt to put them into the constitution.

I think I understand with some variations what the system is in British Columbia, variations between regions of that province, but I think we also have to ask the question when you move east to the provinces of Alberta, Saskatchewan, Manitoba and Ontario, do the aboriginal peoples in those other regions of the country have the same or similar approaches to what aboriginal title means and what flows from it? Does their whole system of self-government, including their rights to citizenship, the rights to maintain their institutions, all depend upon the existence of this aboriginal land base, this land base, this ownership?

I think for British Columbia I could say yes it

does and that is how enormous the problem is, and in addressing it we have, to, as you said in your opening remarks, see how smoothly we can resolve the aboriginal peoples' concerns, as fundamental as they are, with what the rest of Canada and all the other Canadians see with respect to the land base and resources and so on. That is the enormity of the problem.

THE CHAIRMAN: Premier Peckford.

HON. BRIAN PECKFORD: I was wondering, I think we are at the nub of one of the big issues we will have to deal with over the next while. As I understand it now, and I think I do, but from what British Columbia has said, I know where the Assembly of First Nations stands on this question of land base and aboriginal title. I have had an opportunity to read some of the material that the Metis National Council has prepared. I would like to hear -- I mean if we are going to talk about it now, this whole question of title, I would like to hear from the Metis National Council and the Inuit Committee on National Issues and the Native Council of Canada. Are they saying the same things on aboriginal title as the Assembly of First Nations? Then we would have an idea where every group is, as it relates to aboriginal title.

THE CHAIRMAN: Mr. Wilson of the N.C.C.

MR. BILL WILSON: Thank you, Mr. Chairman.

The Native Council of Canada fully supports the concept of title as defined by Chief James Gosnell of British Columbia and the Assembly of First Nations. We do, however, bring to you some other considerations about how you might conceptualize it in your minds. What you seem to be tied up in --

and I don't mean you as an individual, sir, but we here -- is the legal concept of title which means ownership. If you proceed on the assumption that we have some torrid system of land registry and there are pieces of property here, there and everywhere that have been staked out by individuals in the way that non-Indian people do it, you are missing the point, and if I might bring to you one idea; when the German forces occupied France, did the French people believe they didn't own the country? I sincerely doubt that there was one French person in France during the war that ever had the belief that France belonged to Germany, which is why, of course, they struggled with our assistance to liberate their country and once again take it back for themselves.

So the reality that you have imposed is not an Indian system of ownership and registry upon us as native Indian, Metis and Inuit people. It doesn't in any way negate our assumption held since time immemorial that the land was given to us by the Great Spirit and is owned by us.

I would give you another example and it exists not only in Chief Gosnell's territory but in my territory and I suggest in all territories across the country where native Indian and Metis people and Inuit people practice their culture in a manner that is still reflective of the traditions that go back thousands of years.

In Potlatch systems when people die as James has said, in order to take over the name of that individual one is obligated as well to make sure that they have responsibility for the songs and the dances, the aspects of the culture, but more importantly the land and the relationship to the land.

Now, in my district for example there are certain plots of land that were owned by the Great Chiefs that have now passed on to my mother or to other people but the reality is that non-Indian people are living on those plots of land. That doesn't alter in any way our resolve that that land still belongs to us and the problem that we have had in the past is that in your -- Mr. Williams and Mr. Bennett are obviously aware as Mr. Gosnell is, in regard to attempting to enforce that concept in the very delimited forum of the courts and I think if there is one thing we hopefully will learn from this process it is that attempting to apply non-Indian procedures and solutions to Indian, Metis and Inuit problems is going to leave us with this dichotomy of attitudes we will never, ever be able to understand. What we are saying to you

is, yes, we have aboriginal title to the land regardless of how you have developed it. The question of course is that title enforceable by law leads us totally away from the concept that we have. So what we say is we have title and that is why we are talking to you about aboriginal rights, but we are not talking English Common Law definitions, international law definitions of aboriginal title that have been interpreted and re-interpreted and sometimes extinguished by conquest and ceding treaties and other agreements like that. We are talking about the feeling that is inside of us and all of us as Metis, Indian and Inuit people that this country belongs to us and the fact that we were here first and on the basis of all that feeling about the land and our relationship to it.

We want now to talk to you about what those rights are that we will be capable of exercising in our communities. We not only have the title, we have the rights, because you can't give or take away rights. All you can ever do is prevent the exercise of those rights or enhance the exercise of those rights and that is really the challenge before us at this constitutional meeting is to make sure that we establish, on the basis of certain principles, a process whereby aboriginal rights can be exercised according to the needs and desires of individual native Indian, Metis and Inuit communities across the country in their traditional manner, however they see doing that and I think if we have the approach that somehow this constitutional conference or any other constitutional conference that comes after us is going to give us the whole shopping list of what rights are, then we are sadly mistaken. You know, sir, as well as I do and Mr. Munro certainly does that the individual negotiations in

regards to land claims must be taking place between the governments, be it the territorial and federal or provincial and federal and the native Indians, Inuit and Metis parties, according to the needs and desires of the community, reflective of the traditions and the culture and the land and the requirements there. So that is really the process we are attempting to lay the groundwork for.

Whether you accept title or not I think is from my point of view, although I am sure there is large dollars involved in the white man's concept of title and that is probably why we have the confusion. Whether you accept it or not it will always exist for me and will always exist for native Indian, Inuit and Metis people and I hope what we would do would be to come out of this conference, if we are looking for something that we can really say we did here, we can come out of this conference with the persuasive authority that I said in my opening statement this morning of a commitment to make sure that we will allow that persuasive authority to have its effect across the governments of the country, including the federal government and provincial governments and the territorial governments to sit down with native Indian, Inuit and Metis people to do the very same negotiations that are going on with Chief James Gosnell and his tribe.

The biggest problem we have had is that we never get beyond that initial hurdle. We continue to argue, "Do you have the right even to negotiate? Do you really represent who you say you represent? Can you sue the Crown?"

If we could by the constitution somehow get beyond that hurdle and maybe simply establish good faith then we could get around to resolving the things you have talked

about, about the economic problems, the social problems in the community by way of resolutions.

Now, I am sure you don't have any better idea of title than you had when both James and I started talking to you. The best I can tell you to feel about it is your feeling towards your tribe or towards your race, towards your family, towards your extended family and their entire relationship to the land and the things that go on and nobody can take that away from you and the Indian people in the province of British Columbia, I am sure the Inuit people and the Metis people across the country will always have that feeling, whether they call it title or not.

The last point I want to make, Mr. Chairman, is that there was a statement made earlier by you I believe in regard to the fact that we did not represent the Metis people on the Prairies and to a certain extent that is true. The difference that exists between the two groups, if you like to call them that, is that the Native Council of Canada believes that Metis people on the Prairies have not only aboriginal title, they have aboriginal rights and we will continue to make those assertions on behalf of those people, because we do not believe that those people should be left out of the long-term discussions in regard to aboriginal title and if they don't argue title and rights the question would be asked by one of you I am sure, "What are they doing at this meeting?" So we don't have any difference or disagreement with the Metis committee and their political approach, that is entirely up to them and the people whom they represent, but we wanted to make sure that you are aware of our unanimity of purpose with all the native groups here. Title and rights

and the exercise of those rights according to our traditional manner.

THE CHAIRMAN: Well, I think we are making progress slowly. I take it that most of what has been said is the kind of a preamble to a sitting down and bargaining what you are going to end up with as the Nishka are doing now with the governments of British Columbia and Canada and as the James Bay Agreement was signed between the Cree and the Inuit and the province of Quebec and the federal government participating in the negotiations, but that's fine, but I suggest it will end up being a political settlement and we might as well realize that and it will have to be acceptable to all sides, because going back to the Creator doesn't really help very much. So He gave you title, but you know, did He draw on the land where your mountains stopped and somebody else's began and was there never any fighting amongst the aboriginal peoples as to who owned what before the white man came and what is the difference between that and France and Germany? God never said that the frontier of France runs along the Rhine or somewhere west of Alsace-Lorraine where the German-speaking people of France live. God doesn't help us solve these things any more than He made it easier for you in the words of the Indian chief, "God got Columbus lost at sea." He also sent Columbus across, and at what point do you stop reading history? Is it only when the white man came, or 30,000 years ago or somewhere in between?

I think we have to realize that if these discussions are going to be -- produce any results, we can all make the historical claims we want, but we will end up having to agree on something which is acceptable to everybody and you

can once again make the claim of land which belongs to you time out of mind, but I don't know any part of the world where history isn't constantly rewritten by migrations and immigrations and fights between countries, changing frontiers and I don't think you can expect North America or the whole of the Western Hemisphere to settle things differently than they have been settled everywhere else, hopefully peacefully here. So, you know, that is the question, are we going to sit down and bargain what your rights are and where your rights are, or are we just going to repeat historical claims?

MR. BILL WILSON: Mr. Chairman, on a point of clarification, my whole point was that we must stop viewing it from the point of view of the dominant society if we are ever going to understand what the Indian people, the Inuit people and the Metis people want. You are afraid and I think perhaps there might have been a red herring dragged across these discussions, deliberately or otherwise, Mr. Williams, about the potential effect of title and what it really means to you in power terms and jurisdictional terms and court enforceability terms. I hope we could stop that. I hope that that is not your assumption, Mr. Williams, and I think that your understanding and appreciation of our feeling is really what has to take place.

We have the same problem when we talk sovereignty, immediately people take sovereignty and say that means governments that have their own exclusive jurisdiction and heaven forbid that is apartheid and separatism and all of these other things. Our concept of sovereignty is not like that. It is the right to make decisions about ourselves, to enforce through our own institutions our cultures and our

languages and our traditions so that they don't disappear within the Canadian milieu and I think if there is a message that you should receive, Mr. Prime Minister and Premiers, it is that constantly running through your mind our submissions to try to hang them on your assumptions is how we got into this problem in the first place.

We have an appreciation of our relationship to the land and you may not have that same appreciation, but that doesn't make yours any worse than ours or ours any less than yours and I think if you simply understood that perhaps we could stop going to court and lining the pockets of lawyers with thousands and thousands of dollars. Perhaps we could come to some understanding that would be a heck of a lot cheaper than what we are doing now.

There has to be some good faith about it, but I'm afraid that what I said this morning is true, the exercise is not now about frank and open discussion or understanding and appreciation of other people's concerns on the basis of respect and dignity, it has all of a sudden become a question of power and who exercises it and that just means fights that will not get us anywhere.

THE CHAIRMAN: Mr. Amagoalik.

MR. JOHN AMAGOALIK: Thank you, Mr. Chairman. We were here first and because of that we have certain rights and you can call it aboriginal title, you can call it aboriginal right, it doesn't matter, it is a European term and we did not invent it. So it is not really up to us to try and distinguish between what title and rights mean. Our position on aboriginal rights and title is a little bit different from the position of the Indian people because that is, as I said, these are not our terms. Our position is that aboriginal rights, aboriginal title to land, water and sea ice flows from aboriginal rights and all rights to practise our customs and traditions, to retain and develop our languages and cultures, and the right to self-government, all these things flow from the fact that we have aboriginal rights.

In our view, aboriginal rights can also be seen as human rights, because these things, these are the things that we need to continue to survive as a distinct peoples in Canada. The right to cultural survival is a human right, and all these things, all these aboriginal rights that we are talking about, you know, shouldn't be seen as extraordinary rights or anything like that. They are there because we were here first, we had certain customs and traditions and the way we did things before the Europeans came, and we have the right to continue to practise and retain these things. It is a human right, it is not something special that is given to us by anyone. Rights are rights and they

were here before anyone else came.

We are just saying that these are the rights we need to survive as distinct people and they should not be seen as extraordinary rights; they are human rights, the right to survive.

THE CHAIRMAN: Mr. Williams has asked for a moment for rebuttal and then Mr. Chartier and Dr. Ahenakew.

HON. L. Allan WILLIAMS: Thank you, Mr. Prime Minister.

I don't wish to rebut but I would like to make it clear to you and to Mr. Wilson that I was in no way trying to draw any red herrings across the trail. What I am searching for is a resolution to what I see as this gordian knot we are having, and maybe it is language. Chief Gosnell, when he speaks about what aboriginal title is, he says that that means ownership and it is complete. Mr. Wilson says, with respect to land, which he says his mother exercises some dominion over, it belongs to them and we, we ascribe certain meanings to ownership and belonging. Something flows from that. The reason we are having this discussion is because Mr. Erasmus said that if aboriginal rights in Section 35 include aboriginal title, we should put those words in, "aboriginal title" but we can't, Mr. Prime Minister, simply put them in unless the aboriginal peoples and the rest of the Canadians know what it is we are doing to the constitution when we are putting those words in.

Now, I think this could be a very lengthy discussion but it might help us, and I think it is a language problem which stems from a different ethic. Mr. Wilson, Mr. Gosnell, you, Mr. Prime Minister and I come from different ethics when we approach this concept of land ownership. Maybe if Chief Gosnell or Mr. Wilson

could indicate what is it that flows to them from what you say is the land belonging to you or collectively to the tribal group, because once we get over this particular problem, we then have the problem of reconciling the conflicts that there may be between title as we understand it and title as the aboriginal peoples understand it in Canada today.

There are areas of British Columbia where I am sure -- in fact I know that one of the Indian bands would say is our land, but it is completely occupied by non-Indian people and the City of Vancouver is what it is. How do we resolve that conflict? What flows from that question of ownership? It is a very difficult practical problem to resolve.

I don't think we will resolve it by putting words into the constitution which one day will come before one of the judges in our courts who won't understand what Mr. Wilson is talking about and he will make a ruling or she will make a ruling as to what the constitution means and the result of that may be something that we don't want or the aboriginal people don't want and that is why the choice of this language is so critical.

If I may say one further thing about this problem, one of the demands of the Metis people is a land base. I would just like to know whether they see their claims to a land base as having the same origin as that which Chief Gosnell attributes to the Nishka, because I don't think the Metis were there when the Creator made the world, as Metis. They came along some time after and that doesn't mean to say that they aren't entitled to some land base, but I think we should understand that their claim to a land base may be quite different than that put forward by the Inuit or the Indians. Thank you.

THE CHAIRMAN: Mr. Chartier.

MR. CLEM CHARTIER: Thank you, Mr. Prime Minister.

I am not sure how other people managed to be there when the world was created, but we weren't, no, we would have no place to stand. Anyway, I hope we have a more firm footing when we leave this conference.

With respect to words like power and sort of misunderstandings or what-have-you, you have raised what is aboriginal title, is it the right to the deer, and it reminds me of the majestic stag and it seem that a title and that majestic stag seems to be elusive right now and we seem to be trying to say how can we reconcile or bring some of that elusiveness together.

Anyway, not to contradict in any way or take away from Chief Gosnell, what I was stating was under current court interpretation and legal writing, it seems that the words "Indian title", "aboriginal title" or "aboriginal rights" have been used interchangeably, and that is what I was saying the Metis currently view that Section 35, if you want to pursue a legal approach is there, the opportunity is there, but certainly we have no problem again in seeing aboriginal title firmly entrenched in the constitution.

The other argument of the Metis is that Indian title is already entrenched in the Constitution Act by virtue of the Constitution Act of 1867 by Section 146 where Indian title was referentially incorporated by Order-in-Council admitting Rupertsland. I don't want to go into it any further than that, but on the Prairies, as far as we are concerned, we already have Indian title. So, we did not want to belabour that point.

Now, to us, to me, aboriginal title really stems -- it is a legal fiction and is based on a doctrine of discovery that when Columbus came here, magically the colonizer gained some kind of sovereignty and the aboriginal people were lowered to something less than human as a people with a right to their homeland. That basically is still the problem we have today and it is raised today. What do you mean? Does it mean you have a right to throw a stone at a rabbit and eat it, is that your aboriginal title? It certainly must be more than that.

What we feel is that aboriginal title or aboriginal right is the right to collective ownership of land, water, resources, both renewable and non-renewable. It is a right to self-government, a right to govern yourselves with your own institutions, whichever way you want those institutions to be or to run; the right to culture, to language, the right basically to practise your own religion and customs, the right to hunt, trap and fish and certainly gather are certainly part of that, but it is not all of it, and also the right to utilize the resources, exploit them if that is the way you want to talk in terms of what is happening in Canada today, it is the right of the aboriginal peoples to exploit their resources whichever way they see fit. However, as I said, we are here not to deal with the legal aspects under Section 35, we feel that if we are going to do that we have to have the courts. This is a political forum. You are the First Ministers of this land and we here sit representing in a political fashion the same as you do, the aboriginal peoples. We want to seek a political solution and hopefully in seeking a political solution we will not be taken to be abandoning what we view as existing legal rights and with respect to the Attorney General, I believe,

from British Columbia, certainly the Metis as aboriginal people are basing their rights on aboriginal title. We are not denying that. I say that we have it.

The other thing is, and it was raised this morning, or just recently, if we are talking self-determination as opposed to self-government, it is a non-starter, but we the Metis people, as an aboriginal people, as a people, as any people anywhere in this world, have a right to be self-determining and we are not abandoning that right either, and that right flows from sovereignty, you know, in its most absolute sense at one extreme, and assimilation at the other extreme and we are rejecting, at least assimilation, we are willing to forego discussing absolute sovereignty, we are not seeking absolute sovereignty, but we are seeking self-government that fits in there somewhere. You may want to argue something less for us, we may argue something more, but we see this constitutional process, even though it may take five years, we see this as an opportunity to find a place between those two extremes for our self-government, but in order to have our self-government, we do have to have a land base.

I hope that sort of clarifies it a bit for the Metis National Council.

THE CHAIRMAN: Dr. Ahenakew.

MR. DAVID AHENAKEW: Thank you, Prime Minister.

I have listened to some fine words this morning and most of the afternoon and I am really happy to hear that there is a lot of goodwill and good faith, common sense, co-operation, realism and so on. I too wish to express those words, but perhaps not in the same way as I seem to detect the terminology used here.

I heard a lot of people chuckle in this room when God's name was mentioned and yet in your Charter of Rights and Freedoms it says:

"Whereas Canada is founded upon principles that recognizes the supremacy of God and the rule of law."

That is your constitution, that is how it starts when we begin to talk about the rights of people.

I am happy to hear you say that you have no problem in entrenching aboriginal title in the constitution. Chief Gosnell explained to you I thought very eloquently the definition of "title". The others did as well. In British Columbia, in the territories and many other areas of the country there exists aboriginal title without any question, because they have never been surrendered or ceded and therefore exist to this day.

However, in the Prairies there were international treaties made, international treaties, in which the Prairie provinces ceded agricultural land which is the top-soil of those provinces or of those territories. They did

not cede certain territories or waters in those provinces.

I have some problem with semantics or terminology. For example, "aboriginal rights" gives me a lot of trouble. The reason why I say that is because there is no real terminology in my language that defines what that means. We use "inherent rights" because they are inherent.

Again, in the Prairies where I know best, during the time of those negotiations regarding the international treaties, the Lord's name again was used continuously. Now, we use it again in the constitution and I know what has happened in the last several decades about

the supremacy of God about the upholding of the international agreements now that there is a new order in this country. Canada has taken over the obligations and we must not forget that.

You have asked for an 8:00 o'clock meeting this evening to hammer out the process as well as any other documents that the federal government has tabled. I hope we can do that. I am certainly prepared to appoint a small number of people to work with the federal government officials in order that the wording may be acceptable to all of us.

Mr. Chairman, we too are here to try and hammer things out. We didn't come here just to talk to people. We came here to try and secure an absolute future for our future generations, that is why we are here, but there are certain things that we have to understand and those are the things that the aboriginal people are talking about. Let's get a firm understanding and I think once we have that

then the wording of all of the documents that have been presented will automatically fall into place, at least a lot easier. So I ask you let's get on with the work and let's get down to real terminology that we can understand and let's not worry about the notion that the provinces are going to lose. The provinces are not going to lose. The provinces have always gained and they will gain in the future and, certainly, the federal government is going to invest for a change, for the first time in its history in the development of the first nations.

Thank you.

THE CHAIRMAN: I am not sure whether you took off or not when I said that God didn't define the frontiers, but I think it is important for you to understand and I will make a rebuttal on my own, a lot of things are done in the name of God, you know, Columbus came across in the name of God, he was sent by the Catholic kings of Spain to take territory wherever he found it, Cartier planted a cross when he first landed. I am just saying that there is no such thing as the archives of nature and that God hasn't drawn a map saying, "This belongs to you," or, "That belongs to you," and indeed it is in the name of God that many armies have taken land from other peoples, that is all I was saying.

Mr. Erasmus.

MR. GEORGES ERASMUS: If I could try and pull together what I think is before us. I am not sure of the reason why B.C. was going into an elaborate expansion of what "title" meant, but they did a good job and they were building on what Chief Gosnell was stating.

Now, remember when we started this conversation

I said the First Nations believes title is now entrenched in the constitution already and it seemed that the federal government is of the persuasion that that is also the case and so because we agreed let's make it explicit.

Then we got into a discussion, let's find out what aboriginal people mean by "title" because it is going to have an effect on this country the way it is right now, because if they mean they own the land and either the federal government or the provinces are now making laws upon it, some things have to change. Some things have to be rectified, some things have to be dealt with. Well, that is exactly the case. Even with the clause the way it is right now I am not sure what the Premiers thought they were doing, but you did create a situation where you clearly stated to the world and this country that aboriginal rights here are recognized and you have situations in this country where aboriginal people have lived very clearly in one place for not hundreds of years but thousands of years and they are not being dealt with. Their rights in that area of Canada are not being dealt with.

Now, the only point I was really trying to make besides the fact that I think it would make it more explicit if title was there, we wouldn't have to fight it in court, was what is badly needed is a process now to implement aboriginal treaty rights and that is what the on-going process should be dealing with, because rights have been entrenched already.

So as was very clearly indicated by a number of speakers, we could have the courts to define them or we could sit down as reasonable people and work out how we are going to live together and we agree that the courts in most

cases, would be the least desirable way to approach this, but not in all cases.

THE CHAIRMAN: I believe Mr. Stevenson of the NCC has asked for the floor. Is that your name?

MR. MARK R. GORDON (Chief Negotiator, Inuit Committee on National Issues): Mark Gordon.

THE CHAIRMAN: Mr. Gordon.

MR. MARK GORDON: Thank you, Mr. Prime Minister. First, I would like to give our perception of whether our rights flow from title or title flows from rights. We try to avoid any chicken and egg arguments and we are trying to use both terms whenever we talk about this, but in our research and in trying to look at what aboriginal rights are and what our land rights are, we found that there is one basic legal inadequacy in Canadian law that we would like to have somehow addressed and that is that our notion of collective ownership is not adequately covered in existing laws. The closest that we could only come to in describing this collective ownership was in the James Bay Agreement where we created artificial bodies or artificial persons which are the land-holding corporations. Now, our rights or interest to the lands could be covered by ownership in some specific areas. These specific areas could be settled through land claims settlements or other types or treaty negotiations, but in these comprehensive settlements we have had the opportunity to work out what our interests are and not all of those interests were explicitly clarified through the notion of ownership.

We also set up some regulatory agencies and governments to deal with our other interests to the lands.

Through the regional government we were given extra municipal powers over some of the territories that enabled us to give some authority over the areas that we occupy and also some specific arrangements on environmental protections for those lands which we occupied and owned and also outside those areas and most of the people that have spoken today are either in the midst of claim settlements or are just about to undertake these types of negotiations and it is not likely that they are going to say that they are willing to give up any part of it at this stage. It is obvious that these things will have to be negotiated in the future.

However, we feel that the constitution should somehow express our interest in the land in one form or another and in particular we would like to have the possibility of our notion of collective ownership to be incorporated into Canadian law, because as far as we could understand it both in common and civil law the only type of ownership lies within the individual and this is contrary to our customs.

We would also foresee further protections for the individuals within those collectivities on a more defined Charter of Aboriginal Rights. Thank you.

THE CHAIRMAN: Thank you. Mr. Wilson.

MR. BILL WILSON: Mr. Chairman, I think that one of the problems we have is not only a lack of appreciation because we come from different areas on your part of the aboriginal peoples' concept of title or ownership, but among us there are the very differences. You have heard the Inuit perception of their title and what it means to them and you have heard all of these things and while in essence they may very well be exactly the same thing, nevertheless they are perceived by their own individual groups as being something that is special to them and I think it is the simple acceptance of that point to say, "What does title mean?" It is the feeling of the Indian, Metis and Inuit people about their land, et cetera, but where does that get us?

The question that seems to be asked is what will it cost, or do we take the non-Indian public who are living in downtown Vancouver and move them off somewhere else? That seems to be the issue. I apologize, Mr. Williams of accusing you of dragging out the red herring, but I think that that by its very nature is a red herring in the sense that it gets us into the non-starters about, good God, I live in West Vancouver and I just paid off my three million dollar home and you are telling me that if I agree to title, you will throw me out of it. That, unfortunately, is one of the problems and one of the present common misconceptions by Canadians about title.

If we look at it, we would never lose the title, it would always be with us, just as your feeling about your land will always be with you, and we got on to what it really means in dollar terms and the answer to your question is what we negotiate

it to mean, what the Nishka tribal council itself negotiates with the provincial government and the federal government to mean in their particular area and so too in every tribe or nation of peoples across the country as to what it means in their area.

So, while the feeling is in us and will always be in us, what it means in dollar terms is what you do by way of the negotiations. The unfortunate part about that all-important -- the unfortunate part about that is that for far too long we don't get beyond the exception or the acceptance that we have the right to negotiate those things. You know, we have been forced to go to court, we have been forced to do these things and I heard the good statements, and I think very honest and straight-forward statements with regard to some of your intentions to improve conditions on reserves. We don't view title or the constitutional conference or any guarantees that might flow from the Canada Act as being any panacea as it was referred to, for the ills of native Indian, Metis and Inuit people, but we do view it as a way that we can get beyond the lack of trust that has existed in this country for a long time and get beyond and actually deal with the resolutions and identifying the land base for the Metis people, in concert with their own traditions and identifying the forms of self-government. You see there is the biggest problem. Here we are at a national level and attempting to come to definitions of certain terms which are going to be applied all across the country according to the interests of the individual tribes or nations of people, whether they be Indian, Metis or Inuit or otherwise and it is impossible to do that unless we want to have a concept of simply imposing one settlement on everybody.

Now, I would like you to think about title from the point of view -- not title -- negotiations from the point of view of listen, are we going to sit down and proceed fairly and

honestly with resolving those differences? If we are, we must do it, as I said, on a basis of respect, dignity and one more important consideration -- trust. I suggest to you that that is one of the single most debilitating characteristics or lack that exists in regard to our relationship as a country between or among the native Indian people and the various governments that trust does not exist and I will tell you why it does not exist in the province of British Columbia, Mr. Bennett and Mr. Williams, and I have told you this before; it does not exist in the province of British Columbia because you are asking us now to strike a new bargain, and why should we trust you? Well, it would be as if two partners, some twenty years ago, struck a bargain and one partner skipped with all the money. Twenty years later the same partner comes back and says, "Listen, you can trust me this time." Why would that partner do that? I think that that is something that we have to eliminate. If we simply say fine, the past is gone and we have all said that, if we say we recognize your title, but your title is going to mean what it means to you forever, but what it means in terms of dollars and to the Canadian public who are not involved in title, is really the results of the negotiations that go on on the basis of the original ownership by the native Indian people of the land, and that is what title means. It may very well be, and I hate to scare you with this, but it may very well be ninety or one hundred separate sets of negotiations based on the individual desires for a land base and self-government and institutions of our own, among all the aboriginal peoples of the country and then you have your answer as to what title means. That is what it means in dollar terms if that is what you want to do, but I would see no problem. You put it in, it is aboriginal title, I don't see anybody in their right minds as a native Indian, Inuit or Metis person, who would want to trust it to the courts, especially given the progress we have given in regard to the government's commitments to negotiating some better deal for aboriginal peoples.

George says you have accepted it and to put it in and do you accept it, to put it in? We all accept it to put

it in, so let's get on with it, but perhaps it must be explicit. If so, let's put it in there, but on the understanding that all of us know what it really means in terms of the dollar costs which so many people are asking about is what we negotiate individually at the community level.

THE CHAIRMAN: Mr. Sinclair.

MR. JIM SINCLAIR: Mr. Prime Minister, I have a feeling we may have a stand-off for the next couple of days and that is not what I came to a meeting for. I came to the meeting to bargain and negotiate with regard to land and self-government. I think that perhaps some of the groups are afraid that if they

decision lesser than aboriginal rights or lesser than sovereignty, they may be selling themselves down the drain. I think one of the ways you could get around that, and I am agreed to have three different schedules, one for the Metis, one for the Indian and one for the Inuit. Under those schedules, they can fight or bargain for whatever they can get or whatever they want and if it remains a stand-off, it is up to them.

However, for starters the Metis have said we are not asking for sovereignty, we are asking for a partnership in this country. We are asking for some land and not land out of proportion. We are asking for land in relation to our population. We are asking for land where our people have traditionally lived and hunted and fished. We are not asking for land in the urban centres because we don't want that land. We are asking for the rights of the aboriginal people which are clearly spelled out in the constitution and some of those rights would be the right to our own education system, training programs economic development strategies, those type of things we are looking for and that is what I would like to get back to because

I feel that if we start to argue aboriginal title and the government says no, we will go back tomorrow night with nothing done and we will never get a chance like this for the next one hundred years.

However, for those who want to say that they will never give up the fact that they have aboriginal title, I think, looking behind me to see who we have got for an army and what we have for resources and armed forces, we have very little to bargain with where the government has all the power in its hands. That does not mean to say that necessarily we will get down on our knees, but I think we have to take a responsible role in trying to get our foot in the door and trying to make living conditions for our people a lot better because I think the grassroots people at the community level, if you talk aboriginal title, they may have an understanding of it but you must talk about the day-to-day issues of unemployment, the high incarceration, the fact that many of us are living on welfare and the fact that we want to take some responsibility and take our place in society. Under those conditions I think we are prepared to meet and bargain.

I would suggest that rather than argue aboriginal title to the point where it bogs down the meeting, I would be prepared to look at three separate schedules, of which each aboriginal group could discuss its role in terms of the bargain, the way it wants to bargain with the federal and provincial governments.

THE CHAIRMAN: Mr. Stevenson.

MR. BOB STEVENSON (PRESIDENT, METIS ASSOCIATION OF THE NORTHWEST TERRITORIES, NATIVE COUNCIL OF CANADA):

Thank you, Mr. Prime Minister.

Ladies and gentlemen, I would like to remind you of the fact that I represent the Metis people of the Northwest

Territories and we are in the midst of negotiations and we have always based our argument on aboriginal title and aboriginal ancestry. We would like to be on record as saying that that must continue, that is why we support the other aboriginal groups who are pursuing it at this time. Like I said, we are in the midst of negotiating, we are recognized, we have been recognized by Mr. Braden and the territorial government, we have been recognized by the federal government for the last number of years in negotiating for our rights as Metis people, and I wouldn't want to see it go down the drain at this point in time and that is why we would like to see it entrenched in the constitution. The negotiations, whatever agreements come out of it, whether they be called modern treaties, they must be entrenched in the constitution eventually, and hopefully that will be dealt with under the ongoing process and we don't want to get hung up on losing aboriginal title.

THE CHAIRMAN: Mr. Gould of the N.C.C.

MR. GARY GOULD (PRESIDENT, NEW BRUNSWICK ASSOCIATION OF METIS AND NON-STATUS INDIANS): I think one of the problems that is surfacing here is the fact that in your opening statement you already said that the federal government recognized aboriginal title as being part of Section 35. The problem that really is created here is the silence from the provinces on this question. The provincial governments are here and I think that if the federal government is willing to initiate an amendment so that aboriginal title could be put clearly into Section 35, then I think the provinces should respond so that we know where they are coming from.

Mr. Stevenson has already pointed out that the

Metis people from the Northwest Territories and from the Yukon are involved in aboriginal title negotiations. We have heard the comprehensive claims policy used in British Columbia and in other areas of the country, particularly north of 60. The problem is created by the silence from the provinces on this question.

Now, are we not prepared at this point in time as a people dealing in good faith, to sit down and resolve this most ticklish issue of all, the right of the aboriginal people to their homeland, the right to a fair and just compensation because you guys came, you came to our lands and we shared it willingly with you but all of a sudden we were de-possessed and we have no lands now, we have no base for the economy to build on and our Metis people in the Prairies are very concerned about this because continuously every time we bring the subject up we are told that we either don't have title or, in my part of the country, we are told that it was superceded and what we are hoping to do is to find out whether or not there is political will in this room to recognize the need for the aboriginal people to a land based upon the fact that we were here first and that there is some unfinished business with regard to you other Canadian people.

I think that is something that the provinces had best respond to, because we are sitting back here and we are the ping-pong ball. We are being bounced back and forth and the provinces I think should become involved in this dialogue and respond, whether they have the political will necessary to deal with this issue in a fair and equitable fashion, or whether they are just going to be remaining silent in this room because the Canadian public needs to know and so do our people back in our home communities, Metis, Inuit and Indian.

THE CHAIRMAN: Mr. Stevenson, I believe -- Mr. Gordon.

MR. MARK GORDON: Thank you, Mr. Chairman.

On the question of separate schedules for the aboriginal groups and having the aboriginal rights of the different groups described in separate schedules, our group, the Inuit, cannot agree with this at this time. It is our view that these discussions are to describe and identify exactly what aboriginal rights are for all of the aboriginal peoples of Canada and the aboriginal rights and descriptions should be encompassing all the groups and that the further definitions or further details of these aboriginal rights would be done on another level or process which is the treaty making or the claims process. We find we cannot agree at this time to separate schedules in the constitution dealing with aboriginal rights of the different aboriginal people. We think that there should be one set of all-encompassing principles put into the constitution and the specifics worked out through claims negotiations and through treaties.

THE CHAIRMAN: Mr. Erasmus?

MR. GEORGES ERASMUS: The native people would like to sit quiet for a few minutes and get a response from the provinces. We have a request here that we clarify our rights to include title. The federal government seems inclined to agree with us and we would like to see where the provinces are. So we would like some responses.

HON. BRIAN PECKFORD: Mr. Chairman, I can just say as one province that we are confused. We don't know what you mean by "title". I have a document here before me from the Metis group which says:

"Categories of Metis rights which should be identified in the Constitution of Canada as part of the rights of Aboriginal Peoples include:

1. Land and natural resource rights."

Now, you know, that is in writing. That is from one of the organizations here around this table. Now, I can only interpret that, you know, from my experience and from my education. The problem we have got here, Mr. Chairman, is just that simply some of the native groups are explaining in a very general way what they mean by "title" and they want their native or aboriginal idea of "title" to be incorporated into a Canadian English-French-European constitution which will be interpreted by white people to mean something, it seems to me, different from the wording you meant when you wanted to put it in there in the first place, so it will come out with a different meaning and have a different impact upon us and what I see you people seem to mean by it when you explain it. But, I mean, I can only take a document to say that the aboriginal peoples want land and natural resource rights. Now, that means something

to me. It might mean something entirely different to some of the native groups, I don't know, and I think I know how the courts would rule upon that if that was in the constitution and I think that has serious repercussions for the people I represent.

So, therefore, I can't -- I have great difficulty understanding, first of all, what you mean by "title". Secondly, as I listened to you and I think I know, I don't believe that what you are saying is aboriginal title is the way it is going to be interpreted by the white man in the courts of this land. From what I have seen of the courts of this land and how they interpret things, their definition of "title" when it is interpreted is going to be different from the way you are explaining it here today.

THE CHAIRMAN: Premier Hatfield?

HON. RICHARD HATFIELD: Mr. Chairman, I think that if what is being said by the First Nations Assembly and by the other representatives or spokespersons for the aboriginal people is that, first of all, we must recognize that there were peoples here before the settlers came and on that basis they have some special recognition or some special claim and that they are -- flowing from that special claim they are now prepared to, in a political way, resolve these issues so that they are no longer issues as we resolve the issue of the role of the provinces in the Constitution of Canada, as we resolve the issues of rights, human rights. If that is what is being sought I am quite prepared to continue on that basis.

However, if the argument is that we are here to acquiesce to the claim of the aboriginal people that this land is theirs and, therefore, they should be left to do and to

legislate as they see fit, then it doesn't make any difference what my position is, because I don't have any position. I am not a citizen of this country or this piece of geography because I was late in being put here by the Creator.

If we are saying this is our land and if we are going to negotiate on that basis then I am quite willing to do so and I am, as I argued before, when we were discussing the constitution during that famous summer, I have never had any problem with self-determination. I do believe it is a natural right and I have seen governments try to control self-determination and fail. Usually they fail in the streets.

However, the fact is I do believe it is there and, however, what you have to make sure everyone understands is what are the limits of self-determination?

So I think that I am quite prepared on the understanding that we are talking about our land, I am quite prepared to discuss this.

I want to make another point, that I am told that in many cases there is not equality recognized or accepted by the Indian people or the representatives of the people of the First Nations and I cannot, of course, argue that some people in this country have rights regardless of sex, whereas other people don't. I cannot, of course, do that and I cannot, of course, take that position. As I said in the opening and I meant it, I am here to improve the quality of citizenship in Canada, what I call Canada, and I think that that is easy -- it will take time but I think it can be done, but we have to understand that we are talking about one country and what rights do the individual who is a citizen of that country have.

When I agreed to the Constitution Act I agreed

with the understanding that a person who came to this country or became a citizen of this country the day after the Act was proclaimed had all the rights that a person who was born in this country when the Constitution Act was proclaimed was 100 years old. The rights were identical and they have to be.

So if we are talking about the same country, if we are talking about the same right to be a citizen of that country then I think that there is lots of room for discussion. If we are not, then it doesn't make much difference, because my power comes from the citizens of Canada living in New Brunswick and if they are not -- if that power of those people is not recognized then I have no place here and I have no -- what I think is of no consequence, just as what I think about what is happening in the United States of America has no consequence as far as the people of the United States are concerned because I am not a citizen of that country. I hope we are talking about our country and not your country.

THE CHAIRMAN: Premier Pawley of Manitoba.

HON. HOWARD PAWLEY: Mr. Prime Minister, I sense that in dealing with this issue which is very, very complex and obviously it is one which is difficult for many of us to contend with, that it highlights the need for a continuing on-going process. I would be concerned if indeed we were unable to proceed towards that on-going process because of the difficulty that we have containing with the issue of aboriginal title.

I am tabling for discussion either tonight and also tomorrow a framework agreement concerning a charter of aboriginal rights. Part of that framework would provide for a statement concerning and a definition of aboriginal title,

including the rights of the aboriginal peoples of Canada to a land base.

Mr. Prime Minister, this would permit us to ensure that in the on-going process there would be appropriate discussions by the provinces and by the aboriginal leaders in regard to this issue. I think it is important that in tabling this framework that we attempt to place some content, some substance to an on-going process and that is the intent, Mr. Prime Minister, in tabling this framework with First Ministers and the leaders of the aboriginal peoples so that we can move from this discussion at some point during the course of tomorrow to ascertain whether or not we can indeed deal with this issue in a manner that will provide for a framework for an on-going process and identifying those areas that obviously require a great deal of additional consideration on the part of all that are here.

So, if I could just table that, Mr. Prime Minister, what we are dealing with are clauses with respect to rights, definition of aboriginal peoples and enforcement clause, clauses relating to initiation and consent to amendment and that would be included within Part II.

LE PRESIDENT: Monsieur Lévesque.

M. LEVESQUE: J'ai été très heureux, monsieur le président, d'entendre un des porte-parole autochtones se tourner tout à l'heure vers les provinces pour leur demander de donner leurs opinions, parce que c'est vrai que pendant tout ce débat presque métaphysique qui s'est déroulé cet après-midi, qui a été éloquentement entretenu par un bon nombre de gens qui nous a fait remonter à la création, à Christophe Colomb, à ... et que vous pouvez entretenir, si on veut se parler franchement, parce qu'on se parlait franchement ce matin, derrière tout ça, ce qui se déroule c'est un processus politique; ç'a été dit aussi, "this is a political process". Un processus politique qui est une question de pouvoir. Il y a un porte-parole très autorisé des autochtones du Canada qui a dit déjà "the whole thing is about power". Seulement, il faut comprendre le problème, je crois que pour les autochtones, en ce qui concerne ce pouvoir politique, il faut comprendre aussi la méfiance, ç'a été dit "trust", c'est le mot-clé, la méfiance qui est derrière la façade. Le pouvoir s'est toujours exercé de quelque façon assez classique; probablement la plus classique, c'était le pouvoir des armes et puis le pouvoir du nombre. Par exemple, la dépossession des Métis au temps de Riel c'était un crime qui était l'abus du pouvoir des armes soutenu par le pouvoir du nombre. Quand un groupe devient suffisamment dominant, je pense que c'est l'histoire du monde, c'est classique aussi, alors quand un groupe devient assez dominant et qu'il occupe un territoire, ceux qui sont occupés, bah! c'est classique, hélas, mais c'est comme ça - on s'arrange par la ségrégation, par des tutelles, y compris des tutelles fondées sur des lois, mais des lois

passées dans un sens très précis qui est de garder les gens sous tutelle, on s' arrange pour les empêcher d'émerger.

Alors, qu'est-ce qui reste à un groupe pour atteindre une solution civilisée, une solution qui implique que l'on puisse se parler d'égal à égal, fondamentalement, malgré de terribles différences numériques. Ca implique qu'on prenne tous les moyens, qu'on s'organise, qu'on secoue le système, qu'on essaie d'attirer aussi, et très légitimement, le plus d'attention de l'opinion internationale, ce que font assez admirablement nos amis autochtones, de façon à se bâtir la base morale d'un pouvoir politique afin d'amener les gens à négocier convenablement d'égal à égal. Ca nous est arrivé au Québec, c'est pour ça que je parlais ce matin et je me permets de le répéter, je disais ce matin que la véritable voie, à mon humble avis, c'est des ententes avec les gouvernements qui sont sur place, mais avec le pouvoir de les forcer à négocier convenablement.

Je ne veux pas me prononcer sur ce qui se passe dans le reste du Canada, chacun ses troubles, mais il est évident que derrière ce qui se passe et les douzaines de ce qu'on appelle "comprehensive claims" se trouve ce besoin des autochtones, à mon humble avis, ils me le diront si j'ai tort, d'accumuler assez de pouvoir, de pression, pour pouvoir négocier d'égal à égal, ce qui est fondamental. Ça nous est arrivé au Québec, je le disais, ça nous est arrivé pas par notre propre mérite, on a été forcés. Je pense que tout le monde peut évoquer la façon dont c'est arrivé, on a été forcés et on a compris en cours de route que c'était une bonne chose et je pense que nos partenaires

maintenant, qui sont pas contents tous les jours Dieu sait de la façon dont se développe la réalisation des conventions de la Baie James et du Nord-Est québécois, les partenaires sont quand même sûrs d'une chose, ils ont là un règlement négocié qui a pour nous et pour eux une valeur de traité, qui a donné des résultats même dans cette définition de "title", du titre indien ou inuit, peut-être pas la définition idéale qu'ils cherchaient au début, mais on a négocié honnêtement. Et depuis que les contrats sont là, la convention, il y a au moins cinq ou six changements qui ont été demandés, soit par nos partenaires autochtones ou proposés par nous, mais de toute façon, qui ont dû être également négociés et acceptés conjointement, et je me permets de répéter encore une fois ce que je disais ce matin, il me semble que la véritable voie de réalisation de ce processus politique réside dans ce genre d'ententes qui, automatiquement ou ensuite, peuvent être enchâssées ou comme ils disent en anglais "entrenched". Nous, nous voyons cela essentiellement dans nos lois fondamentales, nos interlocuteurs ne sont pas toujours d'accord, mais le processus, il me semble, a du sens et c'est probablement le seul qui permettrait aux choses d'évoluer rapidement. Ça vaut ce que ça vaut, mais c'est notre opinion. Merci, monsieur le président.

THE CHAIRMAN: Well, if I can interrupt briefly to see where we are at in Item 1, I would be inclined to say that there is a general agreement that there could be in the Canadian constitution a Charter of Rights of the Aboriginal Peoples. At least, I have not heard anyone argue specifically against it. That is an admission of the concept of special rights.

The definition of those rights, of course, will be the subject of an ongoing process. In other words, try to define what is hereby recognized and affirmed in Section 35 of the constitution, Part II, and there also seems to be a general agreement that there should be an ongoing process, although we should find some means of constitutionalizing our collective will to have further meetings after Section 37 will have expired, or after this conference, current conference has ended.

I think I detected also pretty general will to be a little more precise as to equality rights, but there again we believe that they are guaranteed to both sexes under the Canadian Charter of Rights. We have no objection, and I have not sensed any around the table to making it even more specific for those people of both sexes who happen to be part of aboriginal groups.

Then, several, but certainly not everyone, agreed that we could look at a Statement of Principles which would guide us in the further meetings, during the ongoing process and whether you call them principles or framework as Premier Pawley did, I think I detected a willingness, a general willingness to state some guiding principles and perhaps a framework which would direct further discussion, whether they be collective or whether they be serialized, as I believe Mr. Sinclair suggested, or pointed out as a possibility.

So, I am disinclined to see the discussion continue on the metaphysics of it, as Premier Lévesque put it, and I am inclined to propose that we ask our representatives tonight, our Ministers and delegates to at least work on such things as those, the recognition of the desirability of a special charter which would then go on to define eventually the rights or the title and, as I said in my statement this morning, we think them to be the same thing, but that will depend, as I said in my later intervention, on what people think they are going to put under the word "title," but that there be a charter, that there be a proposal for equal treatment, that there be a Statement of Principles and that there be a text which would bind us to further discussions, just as Section 37 has bound us to this discussion.

I think there is a general agreement, and I see Premier Lougheed, do you want the floor at this point?

HON. PETER LOUGHEED: I didn't want to interrupt you.

THE CHAIRMAN: I think that is as much of a consensus as I could detect at this point so therefore you are not interrupting the flow of discussion. I think we have agreed though to go on until shall we say 5:25 and then adjourn until tomorrow. So, Premier Lougheed and then Sol Sanderson.

HON. PETER LOUGHEED: Mr. Chairman, when you used the word "agreement" in your last remarks, I had some difficulty with it because in listening to the discussion today and trying to think it through, and in part I share the view of the Premier of Newfoundland that it has been a puzzling afternoon for me to try and determine what is the best way to respond to what we face here. I start off with the fact that we concentrated

on this constitution and we were quite clear that what we were attempting to do was not take away, abrogate or take away any right from anybody in the process and that is why we came forward with Section 25.

We also agreed that we should discuss the question under Section 37 of the aboriginal rights, the existing aboriginal rights of our citizens. I recall that we did not know, as I mentioned in my opening remarks, fully what was intended by what has become Section 35 and we now have Section 35 being the existing aboriginal and treaty rights and the aboriginal peoples of Canada are hereby recognized and affirmed. I was taken by that that the one argument which I thought had considerable validity in November of 1981, in effect there needed in the constitution of Canada to be some recognition of the Metis people of our country and that Section 35(2) has done that by stating that the aboriginal peoples of Canada includes the Indian, Inuit and Metis peoples of Canada.

Then, when we look at Section 37 and why we are here, the purpose is clear, to identify and define the rights of those people to be included in the constitution. Then I hear arguments that have been made through the course of the afternoon that puzzle me somewhat, and I suppose it started out with Mr. Erasmus when I believe he made the point right at the very outset of the afternoon discussion, that he felt that Section 35 provided something very significant to the native people, and I believe that it does too. I believe it was others, including Ontario and yourself that made the point that there was a significance to Section 35 and the issue was whether it should be resolved by the courts or whether it should be resolved here in a political process. I am not fully satisfied even after hearing the discussion today that it necessarily follows that it is better for us to do it through the political process. I am quite prepared to think about it and quite prepared to try, but just as Mr. Erasmus

very quickly moved in to protect the position, to assure that whatever was done did not take away what was potentially acquired under the strength of Section 35, and I certainly accept that, as you quickly did, Mr. Chairman, as a reasonable caveat to be put on these discussions, and certainly if we proceed, that caveat clearly has to be there, but then we get to the question of proceeding from here, and it is obvious that there has to be an ongoing process and then I have some difficulty with two aspects. When I look, for example, Mr. Chairman, at page 6 of your statement today, and I look at my responsibilities as the Premier of Alberta and I note what you say, that when we talk about rights, we have to talk about the rights of these other Canadians who also enjoy the protection of the constitution and the law. I take some concern with an expression that it all has to do with power and to the contrary, I think the difficulty we have is that we are trying to balance the views of some as to what their rights are and the views of others as to what their rights are and it is not an easy one to be involved in. I see it as the exact opposite, frankly, of the question of the exercise of power. It is trying to respond to rights of people on the one hand, which have been expressed here today and it reflects, as you say, Mr. Chairman, the rights of those other Canadians who also enjoy the protection of the constitution and the law. They need to be reconciled and that is the key word, with the rights accorded to the aboriginal peoples.

I am not sure yet whether that reconciliation is possible. I would be inclined to think that in some areas it may be and in some areas it may not. I think only time would be able to prove that process or to establish whether that process is going to work.

I have some concerns, frankly, Mr. Chairman, and I state these comments now because I know the meeting will be occurring tonight, but with a document from the federal government and I accept the good intentions in which it has been submitted, but it has been submitted in a way that requires us to consider a position, at least if not tonight, by tomorrow and I would have some difficulty without very carefully assessing what you have done here, whether or not this is the right way to go. I certainly would have some difficulty entrenching in a constitution by agreement here tomorrow the view that the ongoing process has, in fact, tied us to a position, not only in addition to today but for further meetings. I certainly accept further meetings by way of a political accord, but I have some difficulty on the question of the principles that are laid out there. They may be very good, they may be absolutely the right way to resolve the matter, but I certainly feel that we have to carefully consider their implications in relation to the very caveat you yourself, Mr. Chairman, have put on in terms of page 6 of your statement.

So, I certainly want to think more about what has been presented here today and I don't mean that to be difficult. I realize the difficult role you have as chairman, but when you used the word "agreement" I wanted to enter those caveats into the record.

THE CHAIRMAN: Mr. Sanderson.

MR. SOLOMON SANDERSON (CHIEF, PRAIRIE PROVINCE, REGION, ASSEMBLY OF FIRST NATIONS): Thank you, Mr. Prime Minister. I have sat and listened to the discussions and the speeches since this morning and there is one element that has not been addressed in these discussions. I speak of the many treaties, Mr. Prime Minister that have been signed between the First Nations and the Crown, represented by various governments over the years.

There is no question in our mind that these treaties constitute what is part of Canada now. There is no question in our mind that the Royal Proclamation issued by the Crown which still symbolized much of what makes up your government institutions. The proclamation laid down a number of principles with respect to Canada-Indian relations. The proclamation recognized title that is owned by Indians. The proclamation recognized the First Nations and it also established a process of dealing with those issues, that is the treaty process that has been put in place.

I speak of the many treaties in the various categories, but also it established a process of consent as it applies to issues that are being addressed between Indians and Canada, an issue that has been avoided up to now in terms of many discussions.

We want to make it very clear that any amendments, any additions to the constitution as they impact on Indians and Indian lands will require the full consent of Indians. We don't want that to be misinterpreted as something that the province of Quebec is talking about in terms of their veto powers in any constitutional amendment and I suppose, Mr. Chairman, that it is important to us who do come from the treaty areas to also state that the treaty areas don't grant us anything.

The Royal Proclamation confirmed and recognized the presence of Indian inherent rights. We have throughout our struggles refrained from using the words of your people in trying to define our rights and our position. We sat and listened for a two-and-a-half hour debate and discussion on the term "aboriginal". We recognize that that term flows from you

people, as a political term to try to come to grips with dealing with the question of original peoples rights and titles, with the concept of eventually terminating those rights in some form or another.

We also have to deal with the question of not only the language as we deal with those terms in the constitution, but more importantly when we get into the specific legislation, the meaning of those words are going to be a key to how we do see the results of this forum here take shape.

The categories of the treaties that have not been discussed up to now and have sort of been left as unfinished business as a result of patriation are those pre-Confederation treaties that many of our Indian people have in Eastern Canada who are not participating in this forum at this moment because of many reasons of their own.

There are the areas of post-Confederation treaties. We have the international treaties. The J Treaty still rests with Westminster while in Washington that treaty exists and has been ratified by Parliament in the U.S. It deals with the border crossing question.

There are the treaties that were signed outside of Canada with the British Crown, by the Dakota, the people in Saskatchewan and Manitoba. There is the question of the novation of those treaties. There is the question of resting the treaty obligations with the Crown in right of Canada. We cannot accept that the obligations of the Crown will be one of a divisible theory where we have the Crown in right of Saskatchewan and the Crown in right of Alberta and on and on it goes for obligations and responsibilities for those treaties. We must come to a conclusion that they will rest with the Crown

in right of Canada and this was accepted by Canada in the patriation process.

We want to deal with those questions clearly as they impact on all treaties, including the modern-day treaties. We say that the inherent rights of our people are already entrenched and confirmed in those treaty agreements. We want to have the treaties have some constitutional status.

The sacred process that rests with us, Mr. Prime Minister, is one that we will never break. We still have the sacred stems that were used at the signing of treaty. They are kept by the stem keepers and we have obligations and responsibilities as Indian leaders of our First Nations to exercise that sacred trust and responsibility.

The terms and conditions of those treaties, there are certain terms placed on the shoulders of all Canadians, not just the leaders who sit around here today. There are terms and conditions that we have to abide by.

I also want to say that I would like to get a clarification of what your concept of this forum is here. It is a constitutional forum which recognizes the federal veto along with the participation of the First Ministers across Canada, but nevertheless it is still yours. In the process leading up to the signing of treaties and since the treaties have been signed there has always been one arrangement with many of our people that is respected and still required today and that is one of a bilateral process for negotiation.

We could not come to this forum as you have it structured now. It is one that is a very unequal forum. You people sit here with all the power and all the votes. It is a very unequal forum for negotiation, so we want to clear up

in no uncertain terms our presence here. If it's a consultative process to discuss and deal with entrenchment on rights and issues, let's get that understanding.

As far as Section 91(24) obligations of the federal government that are exclusive to Indians and Indian lands, we are quite prepared to continue with negotiations through a bilateral process as has been agreed between your office, Mr. Prime Minister, and Chief Ahenakew of the AFN office.

We would not participate in this forum to negotiate specific areas as they impact on the implementation of treaty rights. We don't want anybody to assume that with respect to those of us who are under treaty and have signed treaties that the doors are open for renegotiating rights. We want you to respect that those rights are there, those terms and conditions exist and we want to find ways of implementation of those rights through entrenchment in the constitution.

Mr. Chairman, we respect your political forums. At the same time, in your speech today, you have erased the hopes of many of our people in that the first time as Canada represented by yourself is suggesting that we can and will look at the principles of political autonomy as they apply to the degree of jurisdiction both shared and clear areas of jurisdiction. Your speech also reflected that there is a will on the part of Canada to look at some degree of sovereignty.

I want to register with yourself on the part of some of us in the AFN the question of equality. We are not saying that women should not have equal rights. In some cases in our communities, in our tribes, women have greater rights and greater status than men. We have some difficulty with the concept of entrenching in your Charter of Rights and Freedoms the

equal rights that exist and at the same time we have some difficulty with respect to the individual rights approach when, if we are talking about respecting political institutions as they impact on our people, those are collective rights. We want to remind you, Mr. Chairman, that there are two areas of concern, first of all the Lovelace case that was won in the international court was not necessarily won on 12(1)(b) of the Indian Act discriminating women by sex, it was won because of the human rights charters and the conventions that Canada belongs to and have signed, based on her right to continue her citizenship status as an Indian while retaining her culture and her collective rights for the political institutions that we want to create.

We also want to register with you the decision of the U.S. Supreme Court and remind you of that one, whereby even though there is the charter in place under the constitution, the Supreme Court has determined that the charter does not apply because of the political sovereignty of the various tribes to govern their citizenship status. We are not arguing about the need for equality, but just like the French and the English people of Canada in the framework of the new constitution, you have not been arguing equality based on individual membership or citizenship status. You have been arguing and quarreling about the quality of your political institutions and the application of your separate laws.

Many Canadians do not recognize that there is the civil code which applies to the French community of Quebec and there is the English code which applies to the rest of Canada. With your statement this morning on recognition of political institutions as they are governed by Indians we will

certainly need to have a formal recognition that goes along with it of constructing Indian law as it applies to our people.

So some of the approaches that have been suggested by your governments are in conflict already even before we implement and the fear that exists with some of our people is that the entrenchment in the rights and in the charter as it sits now for Canadians generally is a form of defining Indian rights without Indian consent.

We have no question and no quarrel with the governments looking at entrenching a charter for aboriginal peoples, but as far as the treaties are concerned and the people affected by treaties, impacted by treaties, we would insist that there be a schedule dealing with treaty rights as defined between yourselves and ourselves in the bilateral process.

So, I want to put those qualifications on what is going on, Mr. Chairman, because in some cases a lot of people assume that history begins today in these kinds of discussions. I want to remind you that the framework for Canada started many years ago, even though we are looking to form a new chapter in Canada-Indian relations. We will strive for that new chapter to be written in its proper form and in the spirit of your speech and Chief Ahenakew's speech today. So, in dealing with your broader questions of general consensus on the various points you have highlighted just before I spoke, those qualifiers rest with those discussions and those institutions that are going to be considered.

THE CHAIRMAN: I take it you will make those points tonight when you are looking at the words of any possible conclusion or resolution or amendment?

MR. SOLOMON SANDERSON: We would like, Mr. Chairman, tonight to have your position clarified with respect to the continuance of the bilateral process that has been agreed to and firming it up in terms of implementation.

THE CHAIRMAN: Well, I think on part of the assurance you seek I can be quite clear. Nothing which we are doing today affects Section 91(24) of the constitution and therefore we do as a federal government, have the right and the obligation to discharge our policies and to legislate, if necessary, under Section 91(24) dealing with Indians and Indian lands. Therefore in that sense, yes, there will continue to be a bilateral relationship between those people defined in sub-section (24) and the federal government.

On the other hand, you are indicating some reservation, I think, about the notion of a charter as would apply to all aboriginal peoples, and what I am suggesting is

that when you come to discuss that tonight, you make sure that whatever qualifications you have are inscribed in the text that emerges from tonight's meeting.

I thought there was a consensus on the charter, because I understand that there was a general desire on the part of all the aboriginal people to have a charter, a Charter of Rights of the Aboriginal Peoples.

MR.SOLOMON SANDERSON: I feel there is a general consensus on a charter, but the construction of the charter has not been discussed in any detail or at any length. All we are saying is that while there are some general principles that apply to the charter, we already have our rights confirmed by treaty and the proclamation and the constitution and all we want is a separate schedule dealing with the implementation of those rights.

THE CHAIRMAN: Well, I agree. Tonight I don't think it will be possible to put flesh and bones or put flesh on the skeleton of the charter; therefore I think we can find words to leave that process open.

I see Mr. Erasmus asking for the floor, but I would be inclined to adjourn in a couple of minutes, unless you wish to just speak briefly.

MR. GEORGES ERASMUS: A very short statement, Mr. Chairman. You were trying to highlight some of the areas we might be able to get some agreement on, and in your opening statement on page 7, you list one of the possible amendments which would be the inclusion into 35 of the entrenchment of modern treaties or land claim settlements. I noticed that the Newfoundland government in their opening statement also mentioned that. There was no government that actually opposed this idea and I would like

this to be on the agenda for tonight for possible early inclusion into the constitution.

The last thing I wanted to say was that I also read the caveat I think that Premier Lougheed was talking about and it reads Aboriginal Title is No Magic - Doctrines That Can Turn Back the Clock or Reverse the March of History.

Well, let me tell you there is no aboriginal person in this room who is trying to do that. The point that we were making, is that there needs to be, as the Premier from Québec said, some trust, and up until now, prior to the inclusion into the constitution of our rights, the trust had to be solely on the aboriginal peoples. We had to depend upon the goodwill of governments to sit down and resolve our rights. We had to depend on the goodwill of government to deal with our land rights et cetera. I sure hope that I am not hearing from the Premier of Alberta that he is not prepared to even support existing rights in the constitution now. I don't want to read the lines between what he was saying, but the aboriginal people are saying that we are prepared to live with the rest of this country. We know we have rights and in some cases if there is difficulty, either in jurisdiction or in conflict of rights, it has to be politically resolved. There has to be a clear process of implementation that deals with our rights as equals, fairly, at the table and we should be happy with the results, the same way other governments are going to be happy or the other partners of each of the deals, and that is all we are saying. We are not trying to disrupt this country, this is our home. I sure hope I am not hearing that we are going to have another fight to maintain this clause in the constitution. Thank you, Mr. Chairman.

THE CHAIRMAN: Premier Lougheed.

HON. PETER LOUGHEED: I wouldn't want to leave the

meeting with a misunderstanding. It is obvious that Mr. Erasmus did not understand me. I thought I was making his argument that Section 35 was a major step forward and I support it and endorse it and it should stay there.

The question is, should you, if you go beyond that point, then you yourself, Mr. Erasmus, raised the very concern when you begin to identify because then perhaps you will find it limited as compared to the generality and that was the point I was trying to make.

THE CHAIRMAN: It being 5:30, let me remind you that all delegates are invited to a little party in the other room there, a short one, and we will convene here tomorrow morning at 9:30.

The First Ministers will meet for dinner at 8:00 o'clock at my house tonight. The members of the ministerial group will meet at 8:00 o'clock tonight in the Centennial Room upstairs.

La conférence est ajournée jusqu'à 9h30 demain matin.

FIRST MINISTERS' CONFERENCE
ON
ABORIGINAL CONSTITUTIONAL MATTERS

CONFERENCE DES PREMIERS MINISTRES
SUR LES QUESTIONS
CONSTITUTIONNELLES INTERESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

(unverified and unofficial)

Morning Session
March 16, 1983

COMPTE RENDU TEXTUEL

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Séance du matin
du 16 mars 1983

OTTAWA
March 15-16, 1983

OTTAWA
les 15 et 16 mars 1983

Ottawa, Ontario

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--- 10:00 A.M./10h00

THE CHAIRMAN (The Right Hon. Pierre Elliott Trudeau): Order, please. First I should apologize on behalf of Premier Davis and myself. We were opening the Rideau Centre and in spite of all kinds of guarantees and promises we were kept 15 minutes late, so I am truly sorry.

Je vous demande pardon d'être en retard, le Premier ministre Davis et moi-même étions à une autre cérémonie, faisant preuve de coopération fédérale-provinciale et on nous a retenus plus longtemps que convenu.

I think the first order of business is to hear the report on last night's meeting of Ministers and members of the aboriginal groups who, as you know, had been delegated by us to try and put some form and shape to the measure of agreement that we had reached yesterday. If it is agreed, I would like to call first on the Chairman of last night's meeting, the Minister of Justice, Mr. MacGuigan.

MR. DAVID AHENAKEW (National Chief, Assembly of First Nations): Can we give the prayer again?

THE CHAIRMAN: Will you pray every morning in public?

MR. DAVID AHENAKEW: Yes, sir.

THE CHAIRMAN: Everyone should pray to his own God and we will have a moment of meditation. Chief?

--- (Prayer)

We will hear from Mr. MacGuigan on last night's

meeting and then we will have comments on it and if necessary refer it for further work. Mr. MacGuigan?

THE HON. MARK MacGUIGAN (Minister of Justice and Attorney General of Canada): Mr. Prime Minister, Premiers, leaders, ladies and gentlemen. I can report on behalf of the Ministers and leaders who met last night that we had a very fruitful meeting. We reached agreement in substance and we present you this morning with our interpretation and our wording of that agreement in substance. It is fair to say, Mr. Prime Minister, that the other delegations have not had this wording in their hands for very long. Our drafters spent most of the night working to get it ready and we believe that it represents the interpretation of the agreements reached last night, but the important thing is that there was an agreement of substance last night of a requisite number of provinces, of the aboriginal nations and of the territories, sufficient to bring this forward to your meeting today with our recommendations.

Perhaps I might briefly review, Prime Minister, the elements that we bring before you, and I think I should say that the principal element of our compromise was an agreement on constitutional entrenchment of the on-going process, plus an interim accord to take account of the time until a constitutional amendment could become effective. We present that in the form of a constitutional accord which is headed "1983 Constitutional Accord on Aboriginal Rights", to which we attach as a schedule the constitutional amendments that we believe were substantially agreed upon.

If I might just briefly review, Mr. Prime Minister,

the various elements of these documents for the guidance of all here, the first element in the accord, beginning with that, is the inclusion of principles in this document, in the accord, rather than in the constitutional amendments themselves as we had originally proposed. This was at the request of the aboriginal peoples who after full consideration decided that they would prefer to see those principles stated in this fashion. The elaboration of those principles is one in which our drafters took very fully into account the comments which aboriginal spokesmen made in recent weeks, and particularly yesterday. It may or may not be in language which is equally agreeable to all participants. We took as our starting point the text which we proposed yesterday with the modifications that the native peoples would suggest, and you will note, Prime Minister, that we dropped words such as "identification", with which the aboriginal spokesmen had considerable difficulty, and we considerably modified the principles as in our draft yesterday to meet the concerns which the native spokesmen have.

With respect to the next page of the accord, and I may not have the same pagination in my version and I had better get the pagination which you all have, yes, it is still the same; with respect to the provision for a meeting within one year, that was agreed in that it was anticipated that the coming into effect of the constitutional changes would consume more than a year and a meeting ought to be held within that time, and that accounts for this provision in the accord, for a meeting after one year in addition to the provision in the constitution itself for an initial meeting after two years.

You will note that we were asked last night to suggest a time limit on the constitutional amendments. We have suggested a date of November 1st, that is our date and the date in particular was not discussed last night, but it was a suggestion that some date should be used.

The fifth principle of the accord is to meet the concern that many had expressed that there be not meetings only of First Ministers, but that meetings also take place of ministers and representatives on a continuing basis so that there would be an intervening series of meetings, build-up meetings which would prepare for meetings of the First Ministers.

In principle, six and seven of the accord, as I forecast last night in response to the representations of the native peoples, tried to provide for the concern particularly on behalf of the AFN that these multilateral negotiations not replace bilateral negotiations and so we have here a commitment that we will continue to negotiate as appropriate on a bilateral basis.

The seventh paragraph of the accord would try to prevent any unfortunate interpretation being given to the Constitution Act as a result of this accord. In other words, it does not derogate from any rights which the native people have according to that accord.

Then, Prime Minister, very briefly to go through the proposals for constitutional amendments themselves, which are in the schedule to the accord; the first two of those would meet the request of the native peoples that current and future land claims settlements be protected, so we suggested two amendments to achieve that purpose. They are one and two in the proposals.

The next one would entrench the equality of the sexes in aboriginal and treaty rights. Of course in our view those rights as a result of the charter do apply to all male and female Canadians, but it was felt at the request of many of the native people that this would be very clearly stated.

In Clause 3 of the schedule, we provide for participation by the native peoples. Now, I should say that there we have chosen the formula which reflects our belief that it would not be possible to obtain unanimous agreement of the provinces. In the absence of unanimous agreement, we were not able to recommend a change to the amending formula itself. We were able to go only so far as to make a commitment to participation, to the principle of participation.

With respect to the constitutional conferences themselves, eight of the ten provinces were prepared to agree to the entrenchment of the ongoing process in a fashion something like this. We did not reach final agreement as to whether there should be two or three such conferences, and as you will note in the bracketed words, there are two versions of that which are put forward for your consideration.

I think, Prime Minister, that those reflect the principal elements of what we are putting before you. I repeat that as the chair, it was necessary for us to interpret the consensus in good faith as best we could. We have tried to do that using this language, but there was indeed, after a considerable discussion last evening, I think, a fairly complete unity of purpose and a point of view among the vast majority of the participants, which indeed amounted to a consensus on substance and I hope, Prime Minister, that whatever changes have to be made, if any, to the wording of this

document, won't in any way be seen as derogating from the agreement in substance which we did reach.

THE CHAIRMAN: Thank you, Minister.

So then we have two documents to work from, the long typewritten one with room for signature at the end and the one called Schedule, Annexe, partly printed and partly typewritten, and I think the proper order would be to have remarks from any and all delegations as to the contents of this, after which we will return to the agenda and if it is agreeable I would propose then that we start with agenda item 3 on self-government since it is a very important one for the aboriginal peoples.

Quelqu'un demande à parler?

MR. CLEM CHARTIER (Vice-President, Metis National Council): Yes, Mr. Prime Minister, upon reviewing this it seems to reflect fairly accurately what was discussed yesterday but, however, we did caution that in a review of these principles that the principles put forward by the Metis National Council should be kept before the drafters. We would like to point out that there are two items we feel essential should be in the accord and I would like to see in the accord the two following principles, the principle that there must be recognition of a land base for the aboriginal peoples and, as well, a principle dealing with fiscal arrangements. Now, in order to have self-government, again we have to have some place to be self governing and this we feel is a land base. With a land base and self-government we also feel we have to be in a position to carry out the functions of such a government and it is necessary to have some fiscal arrangements, the same as any other fiscal arrangements that currently exist, and if we do not have that of course it will be meaningless to us to have a small piece of land and just be again an impoverished people. So, we want to make sure that those principles are reflected and that aside we would also like to keep open the opportunity of, at some point in time, if not today, discussing the possibility of having schedules to the Charter of Rights so there be a specific political expression of the Metis, the Indian and Inuit. We don't want to close that. So, we would like to see those principles included when redrafting is being done by the officials. Thank you.

THE CHAIRMAN: Could I ask that the Minister

take notes and perhaps respond after we have heard several participants? Chief Ahenakew?

MR. DAVID AHENAKEW: Mr. Prime Minister, I understand that the work that was done last evening by the Attorneys General, and the various aboriginal people went a long way in resolving some of the matters that were outstanding and that were creating a lot of disagreement. I also understand that there are still some matters to be hammered out in the accord that is before us now. However, I would like to say that I am glad to hear that many of the other governments have come around to agree that a lot of work is being done, a lot of work has to be done yet, and they are contributing to the future of the First Nations of this country, and I want to thank the provinces for that.

Having said that, Mr. Prime Minister, I would also like to express some gratitude of the work of the Minister, Mark MacGuigan, for his determination to reach some kind of an understanding or arrangement at this conference. It is refreshing to know that there is some goodwill, that there is action to display goodwill, and that is very heartening. Thank you very much.

THE CHAIRMAN: Mr. Watt, please.

MR. CHARLIE WATT (Co-Chairman, Inuit Committee on National Issues): Thank you, Mr. Chairman. I will start off by reacting to the second page of the long sheets. On the bottom of the long sheets I would suggest we delete right after "own languages", "as well as within one of the official languages of Canada, in order that their children may be equipped to live in the cultural milieu of their choice;..." I feel that that can easily be deleted.

Now, I will move on to the second page.

THE CHAIRMAN: Would you say that again, delete on page 1, delete -- when you ...

MR. CHARLIE WATT: When you see "including the education of their children within their own languages,..." and stop there and delete everything after that, "as well as..." and from there.

Mr. Chairman, I would also suggest that the most important fundamental rights that are being left out in your principles, and I believe that you have one of our position papers that deals with an on-going process, and it talks about the rights of the aboriginal peoples of Canada, that they have rights to the land and water and to the resources thereof which have served as a basis for the self-sufficiency and development of native communities. I think that that clause should be inserted back into the principle. We will also put forward a written drafted one to you later on. Can I move on?

On the second page it states:

"...- the definition of whatever additional rights..." and I would rather delete "definition" and replace it with "elaboration" and the same thing applies to "identified" and I would rather have that changed to "elaboration" also.

MR. GEORGES ERASMUS (North Region, Dene Nation, Assembly of First Nations): While we are on that same subject if we could go back to page 1 ...

THE CHAIRMAN: Mr. Erasmus. Have you finished, Mr. Watt?

MR. CHARLIE WATT: I am finished on the principle

and when I get to the scheduling aspects I will continue.

THE CHAIRMAN: Why not continue now and then we can hear from Mr. Erasmus.

MR. CHARLIE WATT: Very well. Mr. Chairman, I would like to go through, just let me check through this a little more carefully.

THE CHAIRMAN: Mr. Erasmus?

MR. GEORGES ERASMUS: I have a brief point dealing with what was discussed there. On the first page of the accord, at the bottom where we discuss the preservation and the enhancement, we would like to include the words "including the right to" so it is:

"...-the preservation and enhancement and the right to the use ..."

THE CHAIRMAN: Mr. Sanderson?

MR. SOLOMON SANDERSON (Chief, Prairie Province Region, Assembly of First Nations): Thank you, Mr. Chairman. There was a consensus that there would be respect for the federal government's obligations under Section 91(24) and we are suggesting in the schedule part that there be a point 8 added dealing with the concern we have with respect to Section 91(24) and the federal government's obligations. We will put forward to your people a suggested draft of that clause and I am sure that the provinces who have expressed support over the last number of conferences we have had would agree with including a point 8 on that specific concern that we have.

THE CHAIRMAN: I don't understand. You are adding Section 8 and Section 3 already deals with clause

(24) but you are adding to that.

MR. SOLOMON SANDERSON: We would like to make it fairly explicit, Mr. Chairman.

THE CHAIRMAN: Why don't you do that in Section 3?

MR. SOLOMON SANDERSON: It wouldn't matter where it is included as long as it is included in a specific manner.

THE CHAIRMAN: And you will get us some words?

MR. SOLOMON SANDERSON: Yes. And the other thing is with respect to the accord itself the Assembly of First Nations reserves the right to attach a set of principles to the accord that would be signed by Chief Ahenakew on behalf of the Assembly of First Nations establishing the ground rules for our participation in the accord and that is to prevent anything from happening in case you people happen to find the kitchen that was used before.

THE CHAIRMAN: You will have to explain that bit about the kitchen; I am not sure.

MR. SOLOMON SANDERSON: We turn the chair over.

THE CHAIRMAN: Duke Redbird?

MR. DUKE REDBIRD (President, Ontario Metis Association, Native Council of Canada): We are concerned as well about the land base and self-government. It was something that our council tabled in our draft of general principles and our rights as far as we are concerned to land and the resources derived from. We are looking at rights to self-governing structures within Canada and we need the rights to economic resources and the protection of our traditional livelihoods, hunting, fishing, trapping, gathering rights. In this accord, although we agreed that principles would be developed in the

accord, we are also agreeing that that would be a process that would be developed toward entrenching at some later date in the constitution itself, in the on-going process, a set of general principles which would be satisfactory to the aboriginal peoples and we still maintain that position that our principles cannot be left out of an entrenched on-going process.

We agree that in terms of the accord that we are prepared to go with an accord on the basis that that accord protects these general principles that we have tabled on a number of occasions.

THE CHAIRMAN: Mr. Amagoalik?

MR. JOHN AMAGOALIK (President, Inuit Tapirisat of Canada; Co-Chairman, Inuit Committee on National Issues):

Thank you, Mr. Prime Minister. On page 4, on the lines that have been drawn for the signatures, it says: "In the presence of" and then it lists the aboriginal organizations plus the Yukon and the Northwest Territories. It seems to me that you are suggesting that we are only witnesses to this accord and it is our understanding that we are supposed to be a part of this accord and not just witnesses to it.

THE CHAIRMAN: Premier Lougheed?

THE HON. PETER LOUGHEED (Premier of Alberta): Mr. Chairman, this document which purports to commit provincial governments to change the Constitution of Canada arrived on this desk in front of me just a few minutes ago. Obviously we have a number of concerns, a number of thoughts that we will want to consider carefully over the course of today or later. One

which quickly catches my attention is why the use of the words "elaboration of the rights" when Section 37 which was thought through fairly carefully involves the identification and a definition of the rights now recognized and affirmed. I obviously have to seek advice, as I would think other First Ministers will, to determine whether or not the word "elaboration" has a different meaning from the words "identification" and "definition". You should note that on the second page in the second paragraph the word "definition" is in fact used.

THE CHAIRMAN: Mr. Erasmus?

MR. GEORGES ERASMUS: Mr. Chairman, to answer Mr. Lougheed's question and to be consistent, we would want those words deleted on pages 2 and 3 of the text for a resolution. Also, Mr. Chairman, and the reason we are taking this approach obviously is as the Premier and myself agreed yesterday and most of the people around the table, there was a significant event that took place a year-and-a-half ago; rights were included, all the aboriginal people in the Canadian constitution, and what needs to take place now is a clear elaboration of what is there.

So we are very cautious with the wording we want to use, because the wording we use could mean that there is an empty box there, that there are no rights that are recognized today and that what we are doing is really now starting a process of defining rights and we want to protect what has been recognized. I think that is the spirit of what we are doing together.

THE CHAIRMAN: Mr. Braden.

HON. GEORGE BRADEN (Minister of Justice and Public Services, Northwest Territories): Thank you, Prime Minister. I will give the concerns we have for the information of the people here and the ministers.

On page 1 of the accord, we have some concern about the use of the word "narrow" in the statement that reads: "An elaboration of the rights now recognized and affirmed in section 35 of the Constitution Act, 1982." We have some concern that this would further define the rights now set out in Section 35. We would suggest that it just be removed.

Moving on to page 3 of the accord, Prime Minister, my Minister of Constitutional Development last night made the point that in point 3, the section that reads: "... that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories," is superfluous and we suggest that it be removed and I would also indicate, Prime Minister, that we were supported by Saskatchewan and Alberta on removing that particular provision.

We feel that if, for example, we are going to be part of the preparatory meetings, it would seem that you would find it to your advantage to invite the Northwest Territories and the Yukon to the actual meetings themselves.

Moving on to point 5, Mr. Prime Minister, we suggest that the wording be "... elected representatives of the governments of the Yukon Territory and the Northwest Territories." That is in keeping with what is contained in Section 37(3) of the constitution as it now reads.

Moving to the annex, Mr. Prime Minister, we are concerned that on page 2 of the annex, Section 35(1), with respect to amendments to Class 24 of Section 91 that there is no reference to the Yukon and Northwest Territories again and we would urge, Mr. Prime Minister, that some consideration be given to allowing for consultation with representatives of the Yukon and Northwest Territories.

Again in Section 37(3), we would suggest that the section "that, in the opinion of the Prime Minister," be deleted and I would just say one final point, Prime Minister, one topic that we contained in a resolution that we were considering yesterday had to do with the deletion of Section 42(1)(e) and (f) and I don't see it in this particular draft and I am assuming that in the discussions last night it was felt that perhaps in order to achieve a document that we could agree to today, that reference to deletion of Section 42(1)(e) and (f) would be removed. If that is the case, I am also assuming, sir, that the subject will be dealt with in the ongoing process and we are willing to see it removed at this point in time with the understanding that we are going to deal with it in the ongoing process.

We circulated at the last meeting some proposals which would require two or three amendments to the constitution. We recognize that perhaps it is not realizable at this point in time. Thank you, sir.

THE CHAIRMAN: Mr. Chartier.

MR. CLEM CHARTIER: Thank you.

I have, now that we are into deletions, I have two suggestions. On page 2 it talks about self-government basically. It says: "The recognition or establishment of various forms of aboriginal government within the Canadian federation....". I think that probably would be sufficient "and pursuant to its Constitution and laws" I think should be omitted. At the very least "and laws" should be deleted because what we are going into then is the aboriginal government which is already circumscribed by federal law and it is very restricted at this time. I think at the very least "and laws" should be taken out and consideration given to ending the sentence after "Canadian federation."

With respect to No. 2 on that same page, there is reference that the aboriginal peoples, or the rights of would be included as an agenda item. Again I feel that the discussion yesterday was that there would be constitutional conferences for this purpose and not for general purposes and we may find again, and we had fears in the past before we had the assurance of the Prime Minister, that we would have two days, that it may end up being an agenda item that lasts for fifteen minutes. We would want to have some guarantee that we would have at least two days, if the conference is going to be open to other items.

We understood yesterday that it would be a constitutional conference for the aboriginal peoples and the First Ministers.

I just want to flag one other items which should be considered. It is with respect to the commitment to participation in the schedule or in the appendices. Basically it states that there is a principle that before amendments are made to Section 91(24), Section 25 or to Part II,

that aboriginal peoples should be involved. There is no reference, however, to Part IV, which of course guarantees these conferences. It may be that in frustration the First Ministers may get together and decide that they want to end this process and we won't be invited, so I think that should be given consideration.

Thank you.

THE CHAIRMAN: Why do you think we would be frustrated?

MR. CLEM CHARTIER: Well, illusiveness sometimes leads to frustration and who knows.

THE CHAIRMAN: Sorry, I have -- Mr. Peckford.

HON. BRIAN PECKFORD (Premier of the Province of Newfoundland): Mr. Chairman, I am getting a little bit concerned with all of the suggestions being made. There are a lot of significant deletions and additions and amendments being made around this table. I don't know how they are going to be dealt with. I guess there will be a committee put together and struck on it, but as these increase in number and in quality in substance, I am a little bit concerned that we are not dealing with the same kinds of things that we were dealing with last night and I don't know whether it is going to be possible for us to reach something here today, given all of these kinds of changes that are being suggested. So I express a general concern that goes as each participant raises his or her voice to an amendment or to an addition or to a deletion. So I would raise that on behalf of Newfoundland and Labrador.

We have some concerns with parts of the accord; No. 4 as it relates to time, November 1st, No. 6 and what it

really means, all of No. 6 and what it really means. So just for the sake of the discussion ongoing here now, I would just interject the overall point, a concern about a lot of things that have been suggested for change to the document that was prepared overnight and that specifically we have a number of concerns about parts of the accord, and I will leave it at that for now, but I must say that I feel a little bit uneasy with all of the changes that are being suggested here and that we could get an agreement on today, because I think we might need to fairly carefully examine some of the changes that are being suggested, because I think some of them are fairly substantive.

THE CHAIRMAN: We might consider that point after we have heard from more of the participants. You might well be right, but I certainly will have to look for a way in which the committee can work on this and work each in consultation either with the First Ministers or with their heads of delegation. So let's hear a few more comments on this and then we will decide how to proceed.

Did you want to talk about the annex, Mr. Watt?

MR. CHARLIE WATT: Mr. Chairman, it is just a correction in regard to equality rights. I would suggest the equality rights reads, in Section 35(10): "Notwithstanding anything in this part, the rights of aboriginal peoples of Canada are guaranteed equally to the male and female persons."

THE CHAIRMAN: You were reading from the annex on the top of page 2?

MR. CHARLIE WATT: It is a part of page 2 that I am asking to be corrected, and do you want me to read it again, Mr. Prime Minister?

THE CHAIRMAN: Yes, please.

MR. CHARLIE WATT: It would read this way:
 "Notwithstanding anything in this part, the rights of the
 aboriginal peoples of Canada are guaranteed equally to the
 male and female persons."

THE CHAIRMAN: Mr. Wilson.

MR. BILL WILSON (Vice-President, Native
 Council of Canada): Mr. Chairman, I share Mr. Watt's
 concern with regard to that and I think what we are trying
 to do, and I also share your concern, Mr. Peckford, is we have
 struck a committee to go away and do these things for us and
 now we are coming back to re-create the committee's work and
 we could probably be here for a great deal of time.

I recognize the legitimacy of all of the
 concerns that are being expressed and having said that I will
 go ahead and express this one. We would like the clause
 to read at the top of page 2: "(4) Notwithstanding any other
 provision of this Act, the aboriginal and treaty rights
 referred to in subsection (1) are guaranteed equally to male and
 female persons."

THE CHAIRMAN: Any other comments?

Mr. Lane from Saskatchewan.

HON. GARY LANE (Minister of Intergovernmental
 Affairs and Attorney General, Saskatchewan): Mr. Prime
 Minister, we are sympathetic to the comments made by the
 Premier of Newfoundland as to perhaps finding some mechanism
 to discuss this at either the First Ministers' or the ministers'
 level. We have some concerns as to the intention of some
 of the provisions; for example, Section 6 of the proposed
 accord is that will the effect be to bring the provinces in to

treaty obligations and I know that certainly the Assembly of First Nations would have some concerns.

Secondly, does it now extend treaty obligations beyond land to cultural, linguistic, et cetera, and I realize that is for consideration, but I am not sure that we all understand what is in fact being put forth.

The other question is does the proposed amendment to Section 25(b) now include specifically a Metis land base and a guarantee thereof? It is a question and my officials seem to indicate that it may have that interpretation, Mr. Prime Minister, and I suggest if you could propose some mechanism for further discussions, I believe the goodwill was evident last night, and we would like some statement of principles, we don't want to lose that, but we should be somewhat precise on exactly what we all mean. It has caused enough problems today.

THE CHAIRMAN: That would certainly be my intention, to refer all of these subjects to the continuing committee, and there will then have to be a provision of time, either before or after, for the Ministers and representatives to go back to their colleagues to get authority to agree or to delete certain things. So, what I will do, I thought I would continue hearing as many points as possible, within limits, and then refer the matter to our Ministers and representatives so they can look at them with their officials and advisers, and then perhaps have some kind of a break when they can discuss with the First Ministers or heads of delegations who in the meantime will be working here on another item, and then we will see if we can make some progress. I think we are all anxious to have at least some accord by the end of the day, but the more we change and add to it, the less likely it will be, and that is not -- it does not matter. I think we all realize that there will be a continuing process and there will be a need for the Ministers and representatives to keep

on their meetings. Premier Lougheed?

HON. PETER LOUGHEED: I wanted to ask Mr. Horsman, our Minister of Federal and Intergovernmental Affairs, to raise a point.

THE HON. JAMES D. HORSMAN (Minister of Federal and Intergovernmental Affairs, Alberta): Mr. Chairman, this follows on the comments just raised by Mr. Lane with respect to Section 6. It is my understanding there that the provision which was -- which is being proposed, arose out of concerns that it would be still possible to continue on negotiations and discussions relative to treaties or land settlements while this whole constitutional process was underway and that there should be nothing in the accord which would prevent those discussions and negotiations from proceeding, but when we see the words "to the principle that treaties will be negotiated" that puts a different light on it. It seems to me that the proper words, if I am not mistaken from the intent of our discussions last night, would be that treaties may be negotiated during the process of going through the constitutional discussions and if I am not mistaken, Mr. MacGuigan, I thought that that was the intent of that section.

THE CHAIRMAN: All right? Premier Pawley?

THE HON. HOWARD PAWLEY (Premier, Manitoba): Mr. Prime Minister, I would suggest that there be discussion pertaining to the inclusion of a paragraph for an additional item to appear before the third and fourth points at the top of page 2, of page 2, dealing with federal fiscal responsibility, and I would read this wording for consideration:

"The recognition that a special relationship of

fiscal responsibility exists between the aboriginal peoples and the federal government is essential to aboriginal governments and peoples, that adequate fiscal resources be made available to provide services reasonably comparable to those available to Canadians generally taking into account the special social, cultural, economic needs of aboriginal peoples." There are copies that will be distributed of the wording, Mr. Prime Minister.

THE CHAIRMAN: Mr. Williams?

THE HON. L. ALLAN WILLIAMS (Attorney General, British Columbia): I am not sure if it was the lateness of the hour last night, but frankly the favourable results of last night's meeting don't appear to have been translated into the document which is before us this morning. If I may just take a few moments, Mr. Prime Minister, the principal concern at the beginning of last night's meeting was that following the conclusion of today's meeting, unless there is one convened before the 18th of April of this year, then this whole process stops, and we were desperately seeking a means by which we could ensure that the discussions which have taken place and which are taking place over these two days will be continued, and I think there was unanimous support for that concept.

The province of Nova Scotia suggested that we have an accord which would be an expression of political will that this be done, and it would set out the way in which those meetings would be convened, and once having set out the manner in which the meetings would be convened and carried out, that that aspect itself would, in the fullness of time, be entrenched in the constitution so there could be no suggestion that there was a drawing back from the accord, it would be in the constitution.

The reason for that approach was twofold: one, there are serious practical problems in moving to entrenchment immediately and; secondly, there was a concern that if there was not an expression, a political expression from all of the parties involved, that following the 18th of April, 1983, this whole process might fail and this would be a tragedy. That was the approach that was taken.

It was also agreed last night that there would be put before the First Ministers this morning the question of equality between male and female, and we know that some of the aboriginal groups have some concerns about this and they are entitled to express their views and, secondly, the amendment to Section 35(1) with respect to consultation and the on-going process. Other than that nothing was agreed and I don't know where these words come from. I agree that the family of First Nations made the point that notwithstanding the on-going process it was not to preclude, as Alberta has said, bilateral discussions between individual aboriginal groups and the governments to conclude, whether it is land claims or whatever other items are up for resolution, and I don't think there is any question that that should continue.

It was my understanding, that once having settled firmly the basis for an on-going process, that we then had the vehicle by which any items on this rather comprehensive agenda which is before the First Ministers, Mr. Chairman, would then be referred to the on-going process. If one examines in detail all of the elements of the agenda which is before us today, I believe that it covers the totality of all of the concerns that

the aboriginal peoples raised, because at the meeting two weeks ago we adopted their agenda, the words there are the ones which the aboriginal peoples put forward. I am quite prepared to see the on-going process continue for as long as may be necessary to resolve those matters, but what I find here is something significantly different in this document.

Now, during the course of last evening's discussions, the representatives of the Assembly of First Nations approached the question of principles by which the on-going process would be guided, and they indicated they are prepared to drop any suggestion of principles and I thought it was very wise because it might hamper the way in which the on-going process would continue. I gather there was some difference of opinion amongst the aboriginal groups, but we were leaving it to them to see whether or not they could resolve their problem. This obviously has not been resolved because already this morning we have got paper four prepared by the Inuit Committee which indicates that they have some different views. This document, Mr. Prime Minister, is not an accurate statement of what was agreed last evening and I am concerned that if we attempt around this table to begin to add and subtract, that we will lose what we agreed upon last night, which are the essential elements by which all of the agenda before us today, and which may not be dealt with in this meeting, will receive the full attention of all of the governments and the aboriginal peoples with a provision to come back two or three times to the First Ministers, to report upon the progress that is being made and to report upon recommendations

for constitutional change. That is the process that must take place. It is a process which has been missing so far, and I think it has been a major accomplishment of these two days meetings that we finally get this method of constitutional amendment and reformation solidly on the tracks.

In order that we are certain that we do not involve ourselves in matters which have serious legal and political consequences because of hasty, ill-considered words that are used in this process, I would like to see the accord clearly state that there will be meetings, and a provision that that statement will itself be entrenched and then, Mr. Prime Minister, following the end of today's meetings those matters on the agenda which have not been dealt with would then be referred to the on-going process in order that there may be the fullest deliberation and resolution of those problems.

THE CHAIRMAN: Premier Davis?

THE HON. WILLIAM G. DAVIS (Premier, Ontario):

Mr. Chairman, I am somewhat inhibited in that I was not a participant in last evening's discussions. I can only say that in rather rapid consultation with the two Ministers who were present representing Ontario that their impression of last night was that there had been sufficient -- not sufficient but very good progress and the document here, while not available to everybody last evening, represents sort of the direction it was taking. Certainly from Ontario's perspective, without commenting on the additions or deletions or alterations, the general tenor of what has been developed here, we find supportable but I would like Mr. Wells who was at the meeting to give his impressions. I guess it was too much to think when we got this document and people said it did represent that in fact it did, but perhaps Mr. Wells, Mr. Chairman, would like to give his recollection.

HON. TOM WELLS (Minister of Intergovernmental Affairs, Ontario): Mr. Chairman, I am a little surprised to hear some of the comments this morning. I respect that we all had to see what was put down in writing, but I recall very clearly Mr. Morris made a very excellent presentation and put forward the position of an accord and we then discussed how really if we were to keep faith with the aboriginal peoples here, we had to do more than just have a political accord, we had to look for some entrenchment in the constitution, but as the discussion evolved it became obvious that what Mr. Morris and Nova Scotia, British Columbia and Saskatchewan were saying is that it may take a long time, but it is uncertain as to whether legislatures will really pass the resolution to cause a constitutional amendment to occur and entrenchment to occur and we had to cover off that to and in your very excellent way, Mr. Chairman, the chairman of our meeting last night put forward and said it seemed like the consensus was that we all wanted to entrench, but we realized that to entrench immediately would present problems and we therefore needed an accord and the minutes show that when the question was put around we were talking about entrenchment with an accord.

In other words, an accord to have an ongoing process and then we would all undertake to take to our legislatures and Parliament a resolution to entrench an ongoing process and, in fact, we continued on then to discuss what that should be, whether it should be once every two years or every three years, and we in fact decided on the arrangement.

Now, I can't recall whether all of the provinces took part in that, but we certainly discussed what that entrenched resolution should be and that shows up in this paper. So I think while I can respect the British Columbia Attorney-General's position, my view of what we decided is quite different from his and I think this paper today represents very clearly what I thought we were talking about, except the fact that we now need to go around and do a little fine-tuning here and there with words and so forth and I don't think though, Mr. Chairman, we should let this dispute get into a semantic one about whether that is what we did or did not do last night.

I think that we should find out really if this is the kind of way we want to go because it represents, I think in our view, a very legitimate way to move ahead from this conference.

THE CHAIRMAN: Mr. Bennett.

HON. WILLIAM BENNETT (Premier of the Province of British Columbia): Prime Minister, I think what we have found out this morning is that if we continue on the course we are on now with amendments or misinterpretations that don't square either with our representatives' recollection or the transcript of last night's meeting, that really we will defeat the very purpose. We set out to get an agreement. We will not be helping, to give any confidence to the native groups who are looking for a continuing process.

I would suggest at this time, Prime Minister, that we instruct our ministers to go out with a representative

from all of the groups, plus what officials are necessary to get back what we thought we had last night, and that is a process that would allow us on a continuing basis to deal with these issues.

If not, all of these amendments will surely make it impossible and the process, or any ability to resolve these issues in the future will be lost both for the native groups and for ourselves and by trying to put too much and too many amendments into the simple agreement on process, we will lose the whole thing and I think if we agree on anything, we have to agree on a mechanism for process and that we cannot do it in the manner that is evolving now and, Prime Minister, as the chairman, I think you could instruct us all or invite us all to send a representative and have them start working now.

THE CHAIRMAN: Well, Mr. MacGuigan.

HON. MARK MacGUIGAN: Prime Minister, I think most of the issues that have been raised are ones that are better dealt with at the ensuing meeting of ministers, which I think will shortly follow, if I sense the agreement on that point which seems to exist, but British Columbia may have raised a more fundamental point and I would like to try to establish that.

If British Columbia's point is that the language of the principles and indeed even the question of the inclusion of the principles was not totally agreed last night, they are exactly right. The language was our best interpretation of what would fly and obviously on that we had much fuller input from the aboriginal groups than we did from the provinces

and the question as to whether principles should be included, either in the constitution or in the accord was left somewhat up in the air, because we left it to the aboriginal peoples groups last night to try to come to some resolution on that and to let us know. As it happened they were able to come to a resolution immediately after the meeting last night, so we were able to put this in this form today.

If that is the point, it seems to me that that is a question that could be managed by the ministers upstairs, but if British Columbia is now raising the question as to whether there should be a constitutional amendment for the ongoing process, I see them shaking their heads, and I guess that is not the case.

HON. WILLIAM BENNETT: What I am saying is the course, and our Attorney General spoke earlier on that, that we could find out what was agreed to and get on with the process rather than creating new difficulties for the bargaining process by this sort of interchange or exchange that is taking place now. People, maybe with all of the best of intentions, bringing in amendments, when you just talked about -- when you just spoke about an agreement being made between the native groups, I saw some of them shaking their heads.

Now, we are not going to have a process if you continue in this manner. I think we had better get the people who were there back in the room, plus some officials to help with the language and the members from around the table and make sure we come out today with a process that will give some guarantee that we continue, but if you want the conference to fail, then you continue on in this manner, because it will fail and we will have no process. The success we can have is a process, can only be achieved by putting the people back in the room.

HON. MARK MacGUIGAN: Prime Minister, as long as it is understood that there was agreement in principle last night, both to constitutional entrenchment of the ongoing process and an interim accord, which was exactly the question I put to the ministers last night. We have no problems in going back to that room to negotiate the meaning of that.

HON. WILLIAM BENNETT: We have no problems, it is only extensions and the unclear areas.

HON. MARK MacGUIGAN: All right.

THE CHAIRMAN: Mr. Lougheed.

HON. PETER LOUGHEED: Mr. Chairman, I would just like to make Alberta's point clear. Maybe that last remark has helped a bit here as to where we are.

There seem to be two separate matters. We have to have an accord because of the timing that provides for the constitutional process to continue on with two or three other amendments that are attached in this schedule with which Alberta agrees and we understand that. From that point of view that half, if you like, of what we are trying to accomplish is something that we find ourselves moving towards and being able to support and we would like to sign the document.

Now, the second point of it is the part that is being raised, and that is the question of the consideration of principles and in that case there is a concern, and I don't think it is a concern that is exaggerated, of being assured in this very, very difficult area that we are not being involved with words and we are not finding ourselves

with a commitment that down the road in the ongoing process somebody comes back and says, "Yes, Mr. Premier" or whoever is sitting here for Alberta, "You signed that accord on the 16th of March, so obviously you must have meant this." That is the difficulty that we in Alberta have and that is why, and I know it is difficult task, Mr. Minister, that is why I think it is so important that the wording of those other elements that involve the principles be very carefully considered.

THE CHAIRMAN: Let's hear a few more comments and then I think if we want to end up with any paper at all by tonight we should ask our ministers to meet on them.

All right, Duke Redbird.

MR. DUKE REDBIRD: Yes, Mr. Chairman.

We were in the meeting last night, I was there, and I felt what Mr. Wells said was perfectly true. We had come to an agreement, there was going to be an entrenchment of an ongoing process, but the difficulty was when the first meeting would take place, whether that could actually be in place in a year's time.

We agreed that we would sign an accord that would allow the aboriginal peoples to be assured that certain principles regarding their aboriginal rights and treaty rights and pre-Confederation treaties, their land base, their self-government, would be a part of an accord that would allow us to understand that when we entrenched the ongoing process that there were principles that we were going to go into this business with and I agree with Mr. Peckford that all of a sudden

we have an accord before us that we are trying to re-write the whole history and do all the ongoing entrenchment process in the accord.

We need our protection too, as aboriginal peoples, that an accord might be brought forward today and signed, that we are going to be left in the position of going to the entrenchment, the ongoing process and find out that we agree to things in an accord which takes away from what we want to see entrenched finally in the constitution. So we have some problems with that too.

We felt that we had reached an agreement last night, that the Premiers would come committed to that agreement and that we would carry on and we would expect to see the ongoing process entrenched at some later date and the enabling legislation in our separate provinces would be based upon an accord of principles that we had arrived at and that would be agreeable to the aboriginal groups and everyone else concerned.

So, I would hope that if we are going with the agreement that we had last night, that the accord would allow us to entrench those principles which we have tabled throughout this conferencing process with the officials and with the Ministers.

THE CHAIRMAN: I saw Mr. Sanderson first and then Mr. Erasmus.

MR. SOLOMON SANDERSON: Thank you, Mr. Chairman. Just to capture some of the goodwill and the spirit of the discussions last night, I want to remind the First Ministers of it here too so we can move more quickly towards getting agreement on the entrenched process and the accord signed. It is recognized by all of us, I am sure, that the purpose of this conference is to identify and define the entrenchment of rights as they apply to aboriginal and treaty rights, and we all recognize, I am sure, that none of this has been achieved to this point. So, that was part of the reason why there was some support for reaching a conclusion on the agreement for entrenchment and signing of the accord, Mr. Chairman. I just wanted to make that comment because we still have not achieved a single agenda item in terms of recognizing and defining a right to be entrenched for which this conference was called.

The other thing is that on the question of equality; it was raised briefly in a comment by Mr. Peckford, and we have some concerns about the standards or the terms and conditions of equality. We have a lot of respect for our women, for our men, and more and more respect for our women and children in our societies. We tabled a document dealing with the kinds of terms and conditions to equality, Mr. Chairman, that we would like to have respected. It is recognizing the political autonomy and

the cultural sovereignty of our tribes and bands to deal with the question of citizenship policy and so we want to qualify that in terms of that section which was discussed or appended to the accord and make sure that there is a "notwithstanding" clause added so that we do protect the concerns that our tribal groups across Canada are expressing. Thank you.

THE CHAIRMAN: Mr. Erasmus?

MR. GEORGES ERASMUS: Not trying to contradict my colleague here, but we are elaborating rights, not trying to define our rights. There are just a few points I wanted to make, but first I wanted to make it very clear that what we are doing here is possibly something we could have done last night. We had a very, very good meeting and it seemed to me there was a lot of goodwill and things are moving very quickly, but when the actual drafting took place, the parties did not have representatives at the table and obviously it was the drafting exercise that we are all referring to. I mean, that is the reason. It wasn't only Premier Lougheed who did not see the document before it hit the table in front of him a few minutes before we started, it was the same with the rest of us. You know, let's not lose the momentum we developed yesterday or last night because there was a lot of goodwill and obviously a genuine feeling around the table by everyone that the process should continue and we should make those amendments to the constitution now, not immediately obviously, but as quickly as is possible and it looks like as soon as we can get any kind of constitutional change would be around 12 months. So, I guess we will have to get into a room together and make sure that the document that comes out is something that we all

agree with. Having said that, yesterday a document from the First Nations was tabled on implementation, and implementation is dealt with in Section 6 of the accord, and we have some wording here that might be a substitute for what is there and it might deal with some of the concerns that were brought up by the Premiers. It is Document 800-17/013 which was passed around the table yesterday and right at the very, very back is the implementation. One additional point that we made last night, and again it may be that, you know, the federal government perhaps did not agree with the request, but one thing we wanted to make very, very clear is that if meetings like this are going to continue on we want to be there as full participants, not as invitees. I think the same item was brought up vis-à-vis what status the two territorial governments would have at meetings like this, and we would suggest that the language in the accord, Item No. 2, be changed so that in effect representatives of the native people are there to participate as equals. These are conferences to deal with matters that affect aboriginal people. I don't think that it is requesting very much that we come in our own equal status, we come as equals for these meetings.

Finally, if the meeting is going to continue there are a number of other things we did not deal with yesterday which we intend on bringing up, but, lastly, let's not lose the goodwill that was brought forth yesterday. I don't think any of the suggestions that are being made by the native people was intended in any way to undermine the spirit of last night.

THE CHAIRMAN: I see Mr. Wilson with his hand up again. I wonder at this point if we shouldn't ask the drafting group to get together ...

MR. BILL WILSON: What I am suggesting is an approach with regard to expediting this process.

THE CHAIRMAN: Would you, please?

MR. BILL WILSON: What I would like to see is not the committee going out again because we would be saying by doing that that the good work that was done last night and the good work that was generated last night, the good feeling that was generated last night should be swept aside. If there are problems about what exactly happened there, our group and our other groups took verbatim notes of the proceedings and if you want to compare exactly what went on we could do that, but I would hate to see us send the same people out to do the same job over again. What I would like to do, Mr. Chairman, is perhaps recommend that one of your justice officials, perhaps along with one of the native Indian people go into an office somewhere and take all these things that have been put together and put it on a piece of paper and bring it back, otherwise we will be here for a long time.

There is something else that is happening which is of grave concern to me and that is that as soon as we get close to doing something there seems to be almost a strategy to prevent something from happening, something meaningful from taking place. I took your words yesterday with regard to openness and frankness at face value and honesty, and I believe that we should all proceed that way. There is no possibility in my mind with the constant lack of attention in regard to the proceedings where everyone is holding caucuses all over the place and not paying the kind of respect to the speakers they deserve, that we are ever going to accomplish the things we are talking

about. I think we should make a decision to get on with it and do it and I would say to you, Mr. Chairman, that on behalf of the Native Council of Canada and the Metis people and the non-status Indian people we represent, we would be very disappointed if all we come out with from this is an agreement to meet again. We would like to see those things put in and we have participated fairly and honestly in the process last night and we would like to do that but can we take the paper and send it out and if the provinces don't agree then at least we can get a view as to what we are doing. Unfortunately what they have done is drag many red herrings around here to confuse us and take many opinions from the native Indian people to look like there is no good faith but we are committed, we participated and let's look at the new drafted paper and then let's have a look at the consensus that exists around the table in regard to those principles and on-going process and then you can vote yes or no.

THE CHAIRMAN: In fairness I must point out that most of the additions, changes and subtractions have come from the aboriginal peoples this morning. I have heard from a few Premiers but there is certainly no justification in suspecting that anyone at this end of the table is trying to drag things on so we will get no results. I don't think that that is a very productive suggestion, Mr. Wilson. The other one is much more to my liking that the federal government and one Indian go off and write the whole thing.

--- (Laughter)

You see, they are laughing at me and that is sometimes the way I like to proceed but it is not practical. I think we have to decide how we proceed from now. Obviously

there is enough material put forward this morning by way of addition, deletion and changes that if we want to come out of here with a text by the end of the afternoon it should be discussed and looked at now, and I don't know any better group to do it than the group that met last night and therefore they should meet. I think perhaps we should say that they would meet in about 15 minutes so at least the Ministers can spend a bit of time with their colleagues and the aboriginal delegations can caucus amongst themselves and then our delegates up there will be working and my main question then is should we adjourn the whole conference for a period of say two hours; in other words, can we continue the discussion without our Attorneys General and can the aboriginal groups continue their discussions without the principles who are at the table now, assuming they are involved in the drafting process. I put that question to you. Will you have delegations ...

MR. BILL WILSON: I think fewer lawyers here would be a benefit.

THE CHAIRMAN: Well, then -- have you an opinion on this, Mr. Sanderson?

MR. SOLOMON SANDERSON: Yes, Mr. Chairman, we support the approach you are suggesting. We have confidence in our leaders here to participate in that other drafting session and we can continue on with the agenda here with the First Ministers.

THE CHAIRMAN: Is that generally agreed that we could continue while the drafters go upstairs? I see a lot of assent. Therefore, let us adjourn for 15 minutes until 11:30 and the main conference will continue here, the drafting

group will meet in the same room as last night and then we will still have the problem of adjourning for lunch, I should warn you, because of the Art Centre timing. We would still have to adjourn at 12:30 and be back here for 2:00.

Monsieur Lévesque?

M. LEVESQUE: Pour qu'on se retrouve là un peu dans quinze minutes, si on revient à 11 h 30, ce sera sur l'agenda, tel qu'il a été prévu, c'est ça.

THE CHAIRMAN: When we come back at 11:30 we just continue with the agenda. I suggest we start with self-government, but whatever items are ready.

--- (La séance est ajournée pour 15 minutes)

--- Recess

THE CHAIRMAN: Well, I think -- we only have forty minutes left, so I suggest we begin the discussion even though the delegations are not quite complete.

I have the agenda before me and I think it is fair to say that most of item 1 has been discussed in one form or another.

Item 2 has not been discussed but it has to do, of course, with the amending formula and might be somewhat technical. I think that because of the importance of item 3 on self-government, it would be useful if we began the discussion of that, particularly so in that the document that is being looked at upstairs has a phrase at the top of page 2 and I read it, which says, "The recognition or establishment of various forms of aboriginal government within the Canadian federation and pursuant to its constitution and laws,"

I think it would be useful, or at least I would find it useful if representatives of the aboriginal peoples could take the floor and explain to us more fully their concept and their idea of how the aboriginal governments would work in our federal system within Canada and I would find it very useful to begin the discussion in that way.

Mr. Lougheed, the Premier of Alberta.

HON. PETER LOUGHEED: Mr. Chairman, and perhaps to direct it in terms of a question to the Assembly of First Nations, I read their document over last night and on page 511 under self-government and what it said or suggests was the following wording: "Each first nation has the right to its own self-identity, including the right to determine its own citizenship, forms of government and institutions."

Could I have some feeling, Mr. Erasmus, for what you mean by forms of government and institutions? I have some difficulty perhaps understanding what you meant by the phrase "citizenship" and that is just more specifically, Mr. Chairman, following up your question.

THE CHAIRMAN: Mr. Erasmus.

MR. GEORGES ERASMUS: Thank you, Mr. Chairman.

Just before we leave item 1, there were a few items that were not covered yesterday and we do want to register our feelings on them for the record.

One of the items that was not discussed at all was the question of the removal of the word "existing". We understand Alberta's feelings and in private meetings with the provinces, et cetera, and including the federal government, it was our understanding that by and large "existing" is something that governments want to maintain at this time, but we want to make it very clear to yourselves and to this country that we want that term removed and we are going to continue to work to have that removed.

The other item I just want to briefly touch on from yesterday, the understanding we received from the media covering aboriginal title and discussion and some of

the comments that were made yesterday. The concept of original title or aboriginal title is something that we by and large agree on. We are talking about the title that our people had prior to contact with the European people and obviously it also -- the rights we also had at the first contact was full sovereignty.

We are not at this time attempting to negotiate that, but what we are obviously concerned about was that yesterday there was an attempt to somehow or other make it sound as if aboriginal people didn't have the same view in relation to original title and that is not the case. All the major organizations approach title virtually in the same manner. The concept very simply, the status that our people had prior to contact and the status that is dealt with when we enter into treaties and the point we are making is that there are many areas of Canada where that status has not been addressed yet. Treaties have not been entered into with people, our rights have to be dealt with.

So I just wanted to put that on the record and I wanted to make it clear that there might be slight differences, but the similarities by and large outnumber the differences on aboriginal title.

To get into the agenda item you want to discuss now --

THE CHAIRMAN: To return to item 1, I think I owe it to Saskatchewan -- the New Brunswick delegation, they have been wanting to talk about equality and that comes under item 1, one of the sub items, so I think I will hand the floor to Premier Hatfield and Mr. Lévesque would like to speak on that too. So Premier Hatfield.

HON. RICHARD HATFIELD (Premier of the province of New Brunswick): Thank you, Mr. Prime Minister.

I would like to ask Sandra Lovelace, who with the help of a good number of Indian women in New Brunswick, took the case of inequality that exists with regard to Indian women to the United Nations and her case was upheld. I would like to ask Sandra to speak.

MS SANDRA LOVELACE: (New Brunswick Native Women's Association): I would like to thank the Premier of New Brunswick and the Prime Minister for giving me this opportunity to express the views of native women of New Brunswick.

We have been sitting at this historical assembly and we have been hearing from our native leaders about unity, self-government and building nations, but in fact, nations cannot be built without our women. We are the first teachers of our children who are tomorrow's leaders. Native women have been forced to take a stand on entrenchment of equality on Section 35 of your constitution. We must ensure that native women play an active role in the development of our Indian self-government. The discrimination of native women has been going on since the enforcement of the Indian Act by the federal government.

Since my case was ruled in our favour, isn't it about time that the injustices suffered by native women and their descendants be rectified immediately. We all have to stand together to build unity.

Article 2 of the United Nations covenant on the elimination of all forms of discrimination against women, ratified by Canada and it states: "To embody the

principles of equality of men and women in their national constitutions, to take all appropriate measures, including legislation to modify or abolish existing laws, regulations and customs."

We, the native women, feel no one should have the right to discriminate. I think even God would agree to this.

Thank you.

HON. RICHARD HATFIELD: Thank you, Sandra.

Thank you, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Ma'am.

Since you mention enforcement of the Indian Act by the federal government, those were your words, I think it important for me to state on behalf of the federal government that we have been attempting to do away with this provision of the Indian Act. In fact, you will recall that in 1969 we proposed doing away with the whole Indian Act, something which I thought the Indian peoples had been asking for for many years, but they are the ones who have asked us not to do away with the Indian Act, and indeed not to do away with the provision of the Indian Act about which you complain.

Insofar as we are concerned, and I know that this has been the policy of Mr. Munro, the minister responsible for Indian Affairs, we have told the various bands that if they wanted to be exempted from that provision, that we would exempt them and we have in fact exempted several bands that came to us with that request. It may have been stretching the law a little bit for us to do that by ministerial order, but we have done it, so I want to make it quite clear that

your quarrel is not with the federal government, it is with your Indian leaders and we heard Mr. Sanderson make that quite clear yesterday and I don't like passing the buck, but too often Indian women think that this is the fault of the federal government. It is not, we are prepared to take that out of the Indian Act and indeed we put in the Canadian Charter of Rights the provision for equality which we hold applies to Indian women also.

MS SANDRA LOVELACE: But at that level we are being discriminated against and there is nothing we can do about it.

THE CHAIRMAN: Meet Mr. Sanderson over there.

HON. RICHARD HATFIELD: I think, however, Mr. Prime Minister, you would agree that the government of Canada has to be accountable for removing with as much dispatch as possible discrimination which has been recognized or a denial of human rights which has been recognized by the United Nations. So, I think -- I understand what you are saying, and I understand also that what you are saying is, as far as I have been able to determine is true, but I think the government of Canada is responsible for this and if the government of Canada is to pass or defer the blame to the Indian bands, it seems to me that you are beginning to recognize the Indian bands as individual nations. You had better be careful.

THE CHAIRMAN: I really don't accept that point because if you are saying that we should have acted years ago in a paternalistic and authoritarian way and tell the Indians what is good for them, then I must disagree with you. There is a certain point when the law and the Charter of Rights will have to take its course, but I don't think that it is any statement of constitutional law or a recognition of nations as independent peoples that we defer to difficulties they have within themselves and that we don't act in the authoritarian way you are suggesting. Mr. Sanderson?

MR. SOLOMON SANDERSON: Thank you, Mr. Chairman. Just by way of explanation, our preference is, Mr. Chairman, to deal with the broader questions of citizenship policy as they apply to our people. We have never taken approaches to dealing with the question

of membership and citizenship policy based on sex, and therein lies part of the problem. The other part of the problem is that our societies collectively, especially our cultural sovereignty, is governed by collective rights by both men and women. There is no discrimination in the cases of moving ahead on the basis of equality determined by our people. The case that went before the international courts was a case that was flowing from a section under the Indian Act and discriminated against Indian women, but when it was won in the international courts and under the conventions that were signed as part of the international community, it recognized Mrs. Lovelace's right as an Indian to continue to exist as part of the Indian society, the Indian community collectively, to exercise her rights to culture and to exercise her rights to her political institutions and that is the conflict that has arisen from the government dealing with a single membership question versus the broader question of citizenship policy as it applies to Indians.

The other question that has to be addressed I guess in dealing with the on-going concern of equality is that we have a nature of a dual citizenship status for the average Canadians now. An example of what I am speaking of is that the Canadian constitution as it is constituted now is based on a recognition of two groups of people in society, English and French, and each of you have your own political and cultural institutions and thereby recognize equality through your institutions, not based on sexual equality. I would challenge the Prime Minister, and Mr. Levesque from Québec, because if they wanted to put the rights for French women in the charter in the same way you are entrenching ours,

while you exempt them from your Charter of Rights in the province of Québec, then I think you would have the same problems we are trying to express here. I think what we are saying is that we are not interested in discrimination to be continued, we want the right to deal with the question fully on the basis of citizenship policy and that we reserve that right. I am sure that a lot of people across the country would recognize that in many cases, many of our tribes have a system whereby their women have a greater status than men to the point where in some instances in some tribes the women also appoint the chiefs. All we are asking for is the respect and recognition for those kinds of areas, those areas where their cultural sovereignties are to survive under their jurisdiction and under their responsibility and maintain the political autonomy of each band to determine the broader citizenship policies as they apply to our people and to our equal status in Canada based on some mutual terms and conditions that we can agree to in this process we are trying to move along in now.

THE CHAIRMAN: Does that satisfy you?

HON. RICHARD HATFIELD: Mr. Chairman, I want to respond to that. As you know it is a matter of record that I strongly oppose the concept of allowing provinces or the government of Canada the right to pass legislation affecting matters under the Charter of Rights and Freedoms notwithstanding, and that we have already seen and you saw this copout to deny or to subtract from the quality of citizenship in this country, even before that section is in fact proclaimed. We can't -- I think that what is being suggested is that it is a matter to be left with the bands and I have to register very strongly that I don't agree with that, nor do I agree that it should be left

to the provincial legislatures to decide whether or not the Charter of Rights and Freedoms is going to be respected, either in some narrow, specific way or in a general way.

A nation, as Sandra put it, a nation cannot develop and it is contrary to what is the spirit of the people of this nation to have equality in one part of Canada and not have that same equality in other parts of Canada, to have equality in one band and the right to enjoy their culture and not have it in another band. No one can live with that. I want to declare that it is inconceivable that you can succeed in a political forum by having two standards of equality in one nation.

THE CHAIRMAN: Miss Lovelace?

MISS SANDRA LOVELACE: Yes, I want to make this statement, that it was the federal government who made this Act, 12(1)(b) and I think they should be the ones to change it, to end the injustice of native women.

THE CHAIRMAN: I guess we can say we have changed it by putting into the charter a provision for equality regardless of the sexes, and that has been done. Monsieur Levesque?

M. LEVESQUE: Monsieur le président, je voudrais simplement d'abord, j'aurai peut-être quelques remarques à ajouter rapidement après, je voudrais d'abord céder la parole brièvement à deux de celles, ça, je pense que tout le monde l'admettra, qui sont les principales intéressées dans le domaine qu'on discute, c'est-à-dire à deux dames autochtones qui sont membres de plein droit de la délégation du Québec.

D'abord, je passerai le micro à M^{me} O'Bomsawin. du peuple Abénaki, originaire et résidente d'Odanak, au Québec, et présidente de l'Association des femmes autochtones du Québec.

LE PRESIDENT: Madame O'Bomsawin.

M^{me} O'BOMSAWIN: Monsieur le président, au nom des femmes autochtones du Québec, je désire appuyer l'introduction de la partie 2 de la Constitution, article 35, d'une clause garantissant l'égalité entre les sexes indépendamment des autres dispositions dans cette partie. Que les droits des peuples autochtones du Canada y soient sont garantis également pour les hommes et les femmes.

Il y a un doute qui subsiste si les articles présents dans la Constitution s'appliquent aux droits des peuples autochtones. Il ne faut pas qu'aucun doute existe sur une question fondamentale. Ce n'est pas un simple redressement à l'injustice qui existe présentement dans la loi des Indiens, c'est une clause qui va durer pour l'avenir et qui exprimera l'engagement de toutes et de tous que l'égalité entre les sexes est une garantie essentielle.

La clause telle qu'avancée par nous reçoit l'appui de la majorité des associations autochtones, le Comité inuit des affaires nationales, le Conseil national des autochtones, l'Association des femmes autochtones du Canada et autres. Cette clause n'est pas destinée à un groupe en particulier et on ne parle pas de l'intérêt minoritaire, c'est pour l'égalité de tous les peuples autochtones. En tant que tel, ceci doit être inclus dans la Constitution canadienne.

Les femmes autochtones du Québec croient que cette proposition est juste et équitable en ce qu'elle préconise la garantie de l'égalité qui protégera pour l'avenir les droits de la femme indienne.

Par la même occasion, je remercie M. René Lévesque, Premier ministre du Québec, de nous donner l'opportunité de parler pour nous-mêmes sur des sujets nous concernant à cette conférence et par la même occasion, aussi souligner la reconnaissance du gouvernement du Québec envers nos femmes autochtones. Merci, monsieur le président.

M. LEVESQUE: Si vous permettez, monsieur le président - je vous remercie Mme O'Bomsawin - je voudrais céder la parole quelques instants à M^{me} Mary Two-Axe Early, qui est du peuple Mohawk, à Kahwawake, on disait Couchnawaga avant, au Québec. M^{me} Two-Axe Early c'était la championne depuis toujours des droits des femmes, elle a été une des fondatrices du mouvement "Equal Rights for Indian Women" et ça lui a valu, entre autres reconnaissances officielles, c'est presque une reconnaissance internationale, un doctorat honorifique de Osgoode Hall.

MRS. MARY TWO-AXE EARLY (Province of Québec):

I had a vision that I would one day be free again, free to be myself, to be an Indian. I lost that freedom 45 years ago. It was divested by a law, written by free men 70 years before my freedom was pilfered. One-hundred and fourteen years have elapsed since the great white free fathers wrote the words that would inflict the cruelest blow to future generations of Indian women, words that would ravage their personage as women and annihilate their freedom to be buried beside their ancestors in sacred burial ground, to be able to own property, to be able to live in freedom on the land the white fathers carved out for our ancestors to call home, to be able to pass our Indianness and our culture that is engendered by a mother to her children.

I had a vision that the free fathers of the great citadel for democracy and freedom, a land of 23 million who form a mosaic of people and cultures from every corner of the world, dedicated to the pursuit of democracy and justice and freedom for all, a land and a people who have been hostile to those nations and peoples who would jeopardize that freedom. I had a vision that the free fathers of this great land known as Canada would erase forever the diabolical words that have been in conflict with the philosophy that each of you hold dear as Canadians, that each of the people in this great country be free.

Please search your hearts and minds, follow the dictates of your conscience, set my sisters free. One man has already searched his soul and decided where he wants to stand regarding that freedom.

I quote a letter dated October 11, 1980:

"I would therefore reassure all Indian women

in Québec, those who are registered under the Indian Act and those who are not and particularly those who have lost or will lose their status through marriage to non-Indians, that by virtue of their ancestors and their belonging to the Indian identity they are and will always be recognized as Indians by the gouvernement du Québec." Signed, The Hon. René Levesque, Prime Minister of Quebec.

I had a vision that the Great Spirit would help you follow the dictates of your conscience, give you the strength to stand by your convictions, the courage to sustain your philosophy as free men and women. I had a vision and you will set my sisters free. Thank you.

LE PRESIDENT: C'est un peu de publicité pour M. Lévesque.

M. LEVESQUE: Monsieur le président, vous venez de dire que ça fait un peu de publicité pour le Gouvernement. Je dois vous dire, conformément à une entente qu'on a prise avec les représentants autochtones qui font partie de la délégation du Québec, qu'ils ont l'absolue liberté d'être d'accord ou pas d'accord avec nos positions et que nous ne lisons pas à l'avance leurs textes.

LE PRESIDENT: Vous pouvez peut-être les référer également à la Charte des libertés qui est incluse dans la Constitution canadienne, mais elles sauraient qu'elles peuvent aussi remercier le Gouvernement fédéral d'avoir écrit cette Charte.

M. LEVESQUE: Je n'entreprendrai pas une discussion là-dessus, j'aurais quelques remarques à faire, comme je l'ai dit, mais je crois que M. Sanderson, je comprends un peu la réaction, il demande la parole.

LE PRESIDENT: Et M. Munro demande la parole.

M. LEVESQUE: Je vais les écouter, si vous permettez, mais peut-être revenir quelques instants ensuite.

LE PRESIDENT: Monsieur Munro.

HON. JOHN MUNRO: First Ministers, Mr. Prime Minister, Premier Hatfield should be aware, and perhaps he is, and Premier Lévesque, indeed we have faced into this issue as a federal government. A lot of work has been done on it over the last couple of years by my colleague Judy Erola, Celine Payette, Jack Burkhart and Keith Penner, both through the standing committee on Indian Affairs, chaired a committee that reported here very recently and heard representations from all the native peoples interested on this question and recommended that the section, the offensive section which Sandra Lovelace is complaining about, justifiably, be repealed and that report is now being embodied in a Cabinet submission that I am taking to my colleagues for a decision very shortly.

I must say it is encouraging to have, Prime Minister, Premier Hatfield, who has always been known to be empathetic to the concerns of the native peoples, I say that sincerely, and also one who has objected strongly in the past to any degree of paternalism that contributes to dependency of the native peoples that he is prepared to face into this and say, even if it is interference in the internal affairs of self-governing units such as bands and band councils, he is prepared to support, as indeed the Conservative opposition in Ottawa and the N.D.P., together with our own caucus that we do pass a law even before the three years under the charter that the Prime Minister referred to comes into effect.

The reason for that is that even if we waited for the charter and put up with the injustice for that period of time, to take effect, it would do nothing for

the Sandra Lovelace case, because it would not be retroactive, that is our legal advice. So we would have to have a law of Parliament in effect rectifying the injustices of the past and either go back and give Sandra Lovelace and all the other Indian women who have lost status by marrying white men, give them back their status and we have to take into account their offspring and how far we wish to go back and then we will have to face into the financial resources necessary to give proper programming on the reserves, to give them equal treatment with others on the reserves. All of these are issues now that we are prepared to face into in order to rectify this, not least of which we will have to cope with and I talk about all parties, Prime Minister, is that at least for the future, they may decide, and I think Sandra Lovelace will have to continue to mount her campaigns, as indeed everyone will here, to rectify injustices to her in the past, because it may be, certainly as far as the future is concerned, that a status Indian, if this is the feeling amongst the Indian community, who marries a white women loses status, as indeed the Indian woman who marries a white man, you have got equality there, it is argued for the future, and they both lose status, although they can live on the reserve, but again it doesn't correct the situation of status Indian women, such as Sandra Lovelace who has lost her status in the past. So there is a lot of ramifications to this thing and I would like to pay special respect if I can to many of the women and I have already mentioned my colleague, Judy Erola, many of the women of all parties in Parliament and particularly to Keith Penner who is behind me, and Jack Brukhart who did work long and hard and went right across this country in the last many months

to try to remedy the situation in a manner that would be the mildest type of intrusion in the Indian community.

May I just conclude by saying that if we are criticized for not more haste, it was an effort to see how many bands would apply for me to take in an Order-in-Council accepting the application of the Indian Act in this offensive section to the band. Many of them may have applied and it might have been quite comprehensive and removed a lot of the injustice, that many bands have not applied and it makes it all the more urgent that we get on with this despite the fact that unquestionably it does not have the unanimous support of the status Indian people at this time, because they wish to treat it in the overall context that Mr. Sanderson was referring to.

THE CHAIRMAN: I think we should be hearing from the Assembly of First Nations, but first I will recognize the Ontario delegation and then I will move on.

HON. WILLIAM DAVIS: Mr. Chairman, I won't go back over what I said yesterday where Ontario made it quite clear that we were prepared to have this matter resolved in any constitutional change, and as I understood the tentative agreement the other ministers are working on at the moment, the issue will be resolved.

I think it is fair to state to the representatives of the Assembly of First Nations that within Ontario this has been a matter of some discussion and the people in our community know my point of view. I have expressed it publicly.

I would like to ask Donna Phillips to very briefly present her point of view. I would say to the Premier of Québec, she is not a graduate of Osgoode

Hall, but in some of the discussions we have had internally she has almost earned a Q.C. in any event.

MS. DONNA PHILLIPS (President, Ontario Native Women's Association): Thank you, Mr. Davis.

HON. RENE LEVESQUE: Has she written a letter?

HON. WILLIAM DAVIS: She hasn't written asking for one yet.

MS. DONNA PHILLIPS: I would like to thank Premier Davis and thank you, Mr. Prime Minister.

I guess I am a little concerned about the discussion that is happening around the table. We are not concerned with what is happening with the Indian Act at this time, we are concerned with constitutional guarantees for Indian women within this country. The Indian Act, everybody knows what the Indian Act is and has been to us as Indian people. We don't recognize the current band governments as Indian governments. They aren't Indian governments, they are not true Indian governments and if they were, we wouldn't have to be here. Our traditional governments recognize the role of women within those governments and until everybody in this country, non-Indians and Indians alike recognizes that, then I don't think we are going to have any protection at all.

As a result, we have to come to this table and ask for constitutional protection under Section 35 of the Canada Act. It was hard for us to do that, me personally, because I belong to the Oneida Nation.

We heard one of our leaders yesterday say that the circle of life is still here and the circle, the middle of the circle is the women and we can't forget that. We are responsible for our children and our children's

children and their children's children and I think we have heard our leaders say that time and time again in these meetings that have led up to the historical event that we are at now.

We have always supported our Indian leaders that have stated the right to self-determination and self-government, but we can't wait another twenty years or another fifty years or another forty-five years that Mrs. Two-Axe Early has waited and that is why at this time we come to the table and ask everyone, all of our leaders, to support putting in a guaranteed quality clause within Section 35 of the Canada Act.

Thank you very much.

THE CHAIRMAN: Thank you, Ms. Phillips.

Chief Ahenakew.

MR. DAVID AHENAKEW: Thank you, Mr. Prime Minister. I think when the hearings began on the parliamentary task force I said it very clear then and I will repeat it now. In this country, the nations that we have in this country, we want to have that disgusting piece of legislation killed. It should have been killed before it ever got to the table and we wouldn't have the emotional problems, loss of status and everything else that we are presently faced with.

We have a paper tabled now regarding the whole question of equality. We totally support equality, but let's make one thing clear. I respect the Premiers that are sitting around here, but it has been the intrusion by others to try to determine who we are and to always continue the policy of assimilation that has

brought this thing about.

I guess what I am telling you, ladies and gentlemen and Canada, is to get off, you cannot determine who is and who isn't an Indian. Only us, the Indian nations of the country can do that and that is a God-given right and that is the way it must be. The issue is not the differences between the Indians regarding equality, the issue is very plainly who defines who is and who is not an Indian, who determines citizenship or membership, that is ours.

You try and impose yourself on us again on this very matter that is absolutely ours and you are just going to mess it up again as you have in the past, so get off, we are not asking you to give us a chance to determine that, we are telling you we are going to do it and Donna Phillips put it very well; that's the way it is going to go and that is the way it must go. Any God-fearing person will agree with that and I am sure Canadians will.

Thank you, Mr. Chairman.

THE CHAIRMAN: Mr. Bruyere?

MR. LOUIS BRUYERE (President, Native Council of Canada): I think it is because of this whole problem that part of our membership or a large part of the membership of the Native Council of Canada is as you call them, non-status Indians, and just with that I would like to ask Jane Gottfriedson to speak on this being the President of the Native Women's Association of Canada.

MRS. JANE GOTTFRIEDSON (President, Native Women's Association of Canada, Native Council of Canada): In light of the discussions of the equality clause, because it is a basic fundamental right, I was assured it would be entrenched without any arguments, but it is our concern as we want to ensure that future generations of our people will never be again subjected to governments that, for whatever reason, have imposed legislation upon us. We never want to see again cases such as Janette Lavelle or Sandra Lovelace or Julia Martinez in the United States. Despite the presence of a bill of rights, these women like many others were treated with inequality by virtue of a colonial system and we want this to cease. Equality has always been a part of our culture, a part of our tradition, and it has been cast aside by colonial powers. The question of defining our own citizens and those who are members of our society has always been our right, and those rights were applied equally. Because of the many impositions that have been thrust upon us, men and women alike, we seek the entrenchment of the following clause in Part II of the constitution:

"Notwithstanding anything in this Act, the rights of aboriginal peoples are guaranteed equally to male and female

persons."

We really feel strongly that the equality clause should be included in 35 rather than Part I, to give it further weight to the development.

Bob Warren will address you.

THE CHAIRMAN: Before Mr. Warren addresses us I have to get a feeling from the meeting. I know Mr. Warren wants to talk and Mr. Erasmus, Premier Hatfield, Premier Levesque and a few others and Mr. Watt. I wonder if we shouldn't adjourn and continue, unless you want to skip lunch which is fine with me. Shall we adjourn or continue?

Can I hear an expression of views? Shall we continue to 1:00 or shall we adjourn until 2:00?

SOME DELEGATES: Adjourn.

THE CHAIRMAN: What is the argument for continuing?

MR. BOB WARREN (President, United Native Nations, British Columbia, Native Council of Canada): We are for continuing. You were talking about our rights.

THE CHAIRMAN: That is right and one of our rights is to eat. I am in the hands of the meeting. I can tell you you can't have lunch at the Centre if you don't go now and I will recognize the people I mentioned in whatever order I mentioned them when we return. Mr. Watt?

MR. CHARLIE WATT: Mr. Prime Minister, I wonder if we can speed up the discussions on the equality rights. If we are going to continue to talk about equality rights again after lunch we are not going to be able to half-way accomplish what we are here to do. I would like to have one clarification, Mr. Prime Minister, with respect to equality rights. From what I understand, equality rights itself stands by itself

and is on its own merits. If you are talking about rights to determine your own citizenship, rights to determine your own setting up of your criteria, that is something else all together different. It is not what the Assembly of First Nations is talking about, but why can't equality rights be entrenched, and build in some kind of a safety factor that they have rights to determine their own membership or set up the criteria?

THE CHAIRMAN: You are making an argument now, Mr. Watt.

MR. CHARLIE WATT: I am trying to come up ...

THE CHAIRMAN: And so will everyone else if we go on at this point.

MR. CHARLIE WATT: I am trying to come up with some solution.

THE CHAIRMAN: Why not **argue** it over lunch? On a point of order from one of you but not on a point of substance, otherwise I will adjourn.

MR. GEORGES ERASMUS: I have to make a point of substance but it is not very lengthy. I have not been given a chance to speak on this and I want to make it very clear where we are coming from. We are talking about equality, yes, but I will give you an example of what we are talking about. I particularly, in the case of the north, the Dene, we have for years now tried to get equality among our people, but we have had a lot of problems in our negotiations getting the government to agree that all of our members are going to be treated equally. The government continues, both in the Yukon and in the Northwest Territories, to be dealing with people that are at the table in two different ways. If

you look at the settlement that is being made with the CYI and the Dene, both of us are saying that our membership should have exactly the same rights and what is happening is that at the negotiating table we are being told that those people that are either recognized as status or treaty are going to be dealt with differently than those that don't have their status, and that is a problem.

Now, we don't even refer to ourselves as Indians. We say we are Dene. The Indians live in India and they are citizens of the State of India. You know, we have for years tried to get this, so don't try and reverse this on us. The reason we are saying equality and citizenship comes together is because if you give us equality now we go back to the table and all you are going to be talking about is those people who have non-status rights should have the same rights and those people who have status rights should have the same rights if they are male and female and so you have got to couple equality with citizenship, otherwise it means nothing. That is the point we are making.

THE CHAIRMAN: Well, I think that I along with many others would like to join in the debate but I think I will adjourn and I can adjourn to a quarter to 2:00 if you want to have a bit more time. Two o'clock?

MR. CLEM CHARTIER: A quarter to 2:00.

LE PRESIDENT: La séance est ajournée à 2h00 après-midi.

--- 12:40 p.m./12h40

FIRST MINISTERS' CONFERENCE
ON
ABORIGINAL CONSTITUTIONAL MATTERS

CONFERENCE DES PREMIERS MINISTRES
SUR LES QUESTIONS
CONSTITUTIONNELLES INTERESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

(unverified and unofficial)

Afternoon Session
March 16, 1983

COMPTE RENDU TEXTUEL

(non révisé et non officiel)

Séance de l'après-midi
du 16 mars 1983

OTTAWA
March 15-16, 1983

OTTAWA
les 15 et 16 mars 1983

--- 2:00 p.m./14h

THE CHAIRMAN: I recall this morning that I had recognized a member of the NCC and I think Premier Levesque had asked for the floor but we will give it to Chief Max Gros Louis instead and he can run the delegation with Mr. Morin's help.

M. JACQUES-YVAN MORIN: Monsieur le président, nous sommes très fiers que le chef Max Gros-Louis, des Hurons, soit parmi nous et c'est effectivement lui qui va prendre la parole maintenant avec votre permission.

THE CHAIRMAN: Thank you.

Should we begin with you -- I don't have your name.

MR. BOB WARREN (President, United Native Nations, British Columbia, Native Council of Canada):

Thank you, Mr. Prime Minister. In going back to the discussion with regard to equality rights, which we were dealing with prior to the adjournment for lunch, I would like to make a few comments and observations in respect to particularly the native Indian women of this country. In Mr. Munro's comments this morning, he made mention to the nation that the non-status issue is something which has resulted from native Indian women marrying white men and I think that this is certainly a misconception on the part of many Canadians as to exactly what the whole question about non-status Indian people

are about, because we can cite all kinds of examples, all kinds of excuses why we use the term of non-status Indians in reference to native Indian people who have been denied their rights in the past. I think that the basis with which we are faced with in terms of the aboriginal people in this country has come from very much a systematic and determined strategy to not only enforce the assimilation of native people, but to terminate any kind of identification of Indian people in Canada. I believe that we have come to this conference in a way that we are saying that we are open to discussions about how we are going to resolve the problems that have come from decisions that were made by governments in the past, and in order to do that, I think that we have to be very fair and we talked of trust yesterday; well, we have been subjected to placing trust in governments in the past, and now we find that here is a representative group of probably two-thirds of the native Indian people, the aboriginal people in Canada, and we are not considered by way of legislation as being native Indian.

Mr. Munro has also made public different considerations about the reinstatement, about retroactivity and about its cost to the Canadian people, and I think that it has to be clearly understood that the native Indian people are the only group of people in this country that have ever been identified as having special expenses to the taxpayers without giving any consideration to the ownership of the resources, to who we are as aboriginal people, the original owners of this land, and our welcoming and sharing with the rest of Canada, because if we are going to start to talk about what it will cost for reinstatement for the non-status

Indian people, what we must also give consideration to is let's make that on a comparison basis as to what it costs you to be able to walk on paved sidewalks, to have night lighting, to have your telephone systems, your communications systems, your rapid transit systems, your concrete monuments showing Canada's nationalities. Let's take a look at it in that respect and let's break down what it costs each individual Canadian to be able to show to the world those trophies which Canada's resources have produced.

So, it is not a question of money, it is a question of who we are as aboriginal people. I agree with Dr. David Ahenakew that the native people must be the people who define who are members of our society, but I speak in favour of the entrenchment because what we have to do is to guarantee, not only to our own people, not only to Canada as a nation but to the world that the Canadian constitution is one that has been put forward with total respect for the rights of all of the people, that it must be all native Indian people who are going to be included in developing their own governing structure, rebuilding by the traditional strengths and in doing that, that does not take away from native Indian people defining membership.

What it does do is guarantee that we will all be there to do that.

We also have to understand that an entrenchment of the equality clause does not in any way construct any rights, it is simply an expression of our desire to ensure that all people are going to be participating in that process and when we talk about an ongoing process, we want to also understand who are we talking about, like, whom is that process going to be benefitting, because if it doesn't include all of our people, then this conference has been a failure, and I think it is a desire to ensure and guarantee to the entire world that we are all going to be included in that process.

I make this statement on behalf of the Native Council of Canada, because we have already had a statement right here at this very table by your Minister, Mr. Munro, in terms of considering the future funding of the Native Council of Canada, because at the last Ministers' meeting there was some question about the representation of the Native Council of Canada and, unfortunately, this has been our history of dealings with the Department of Indian Affairs and with all levels of government in terms of the considerations and protections of our rights as non-status Indian people.

We find that totally unacceptable. It has been a public expression that they also find it unacceptable and we wish to resolve that. It has been the position of the people that are most affected in all the provinces and territories across this country, that there must be this recognized guarantee that all native Indian

aboriginal people, be they whatever category of native people we have been termed, have the right to participate in all of the decisions that are going to be affecting our lives as aboriginal people.

Thank you.

THE CHAIRMAN: Yes, Mr. Erasmus and then I think there was somebody from the Inuit group and then I will come to the Premiers.

MR. GEORGES ERASMUS: Mr. Chairman, going back to the issue we were dealing with this morning, the question of equality, I have a statement I want to make for the First Nations.

The Assembly of First Nations would like to make it clear what our position is, both on the question of citizenship and equality. We would like to make it clear that we agree with the women who spoke so forcefully this morning, that they have been treated unjustly.

The discrimination they suffered was forced upon us through a system imposed by white colonial government through the Indian Act. It was not the result of our traditional laws, and in fact it would not have occurred under our traditional laws. We must make it perfectly clear why we feel so strongly that we must control our own citizenship.

We agree completely with the United Nations Human Rights Committee decision in the case of Sandra Lovelace. The committee recognized the legitimate and fundamental goal of tribal survival and that is our right. Any decisions on citizenship will be made by our governments with that goal in mind and not in a racist or sexist manner. You have that assurance and we stand ready to be judged by the international community, just as you have been judged, but you cannot dictate to us what is necessary for our cultural survival. Citizenship deals

with the survival of our nations, as it does with yours. It has to be our responsibility.

We would suggest, Mr. Chairman, that you table the matter of citizenship for further discussion within the ongoing process and we support, Mr. Chairman, the inclusion of an equality clause at this time under the condition that we have set out, namely, that the issue of citizenship be left for further discussion.

THE CHAIRMAN: Well, that would seem to solve the problem. I hope those who are looking at the drafts up there will be made aware of that.

Do I recognize Monsieur Chef Gros-Louis -- first Mary -- what is your second name -- Simon.

Ms. Mary Simon of the Inuit Committee on National Issues.

MS. MARY SIMON (Member, I.C.N.I.): Thank you, Mr. Prime Minister.

I would like to speak for a few minutes on the equality clause. I don't want to spend too much time on the issue because we have other fundamental issues to deal with and I don't think we have much time left.

I would just like to give I.C.N.I.'s position on this clause. I.C.N.I. has always insisted that the equality provision be part of the constitution and part of this conference agenda. We have continually supported the unconditional entrenchment of the equality provision and we continue to do so. We recognize that other problems may continue to exist, such as those related to status and non-status people, but the equality provision must be entrenched.

All governments can sometimes ignore or neglect to consider individual rights and I think that all governments can sometimes recognize this fact just as the federal and provincial governments have limited their powers so as not to allow sexual discrimination, so should aboriginal governments be so limited.

This is our position. Other issues will have to be decided on their own merits, but always subject to the basic human rights of sexual equality and that is the position of I.C.N.I.

THE CHAIRMAN: Thank you, Miss Simon.
Monsieur Jacques-Yvan Morin.

M. JACQUES-YVAN MORIN: Monsieur le président, c'est avec plaisir que je vais céder la parole à M. Max Gros-Louis Onéonti, ce qui signifie bon payeur. M. Max Gros-Louis est le grand chef de la Nation huronne et je suis heureux qu'il soit bon "payeur", parce que nous sommes dans le même canot au Québec, les autochtones et les Blancs, nous avons besoin justement de bons payeurs, alors, je lui cède l'aviron.

M. MAX GROS-LOUIS: Monsieur le Premier ministre, messieurs les Premiers ministres, d'abord j'aimerais faire un commentaire pour dire que je suis complètement d'accord avec ce que M. Erasmus vient de dire concernant la citoyenneté, c'est très, très important pour nous si on veut conserver nos groupes, nos nations, que ce soit les nations elles-mêmes qui décident qui en feront partie.

J'aimerais vous demander, si vous permettez, je serai peut-être un peu en dehors de l'ordre du jour, mais j'aimerais avant que les gens qui sont ici à la table pour prendre des décisions, j'aimerais leur rappeler un peu dans quelles conditions on a été et dans quelles conditions on est encore.

Ici, vous avez treize délégations constituées de noms autochtones, une délégation indienne. En tant que grand chef des Hurons, je voudrais, je vous ferai remarquer que ce chiffre est éloquent: il résume notre histoire commune. Quand nous, les premières nations, étions la majorité, nous n'aurions pas agi de la même manière.

Un auteur de votre langue anglaise a dit que la vérité est la fille du temps. La vérité d'hier est lamentable, celle d'aujourd'hui, inquiétante; quant à la vérité de demain, est-elle confuse ou prévisible ? Nous devons nous concentrer sur l'avenir. Mais celle-ci ne se comprend qu'à la lumière du passé, ne s'appréhende qu'en fonction du présent.

Notre passé commun, je vous l'ai dit, fut lamentable. Il est curieux de constater que les émigrés fuyaient la tyrannie et l'oppression pour mieux nous l'imposer dans ce pays que nous occupons depuis des millénaires. D'abord, une tyrannie de l'esprit, regardez vos propres manuels d'Histoire, vos films, votre télévision: on y représente la première nation comme des sauvages, sauvages qui n'ont rien de bon. On nous interdisait l'école et dans vos écoles, on nous interdisait la langue de nos pères .

Ensuite, vous décidez que nous n'étions pas des Canadiens. Les premiers occupants devinrent des mineurs privés même du droit de vote jusqu'en 1960. Pourtant l'Indien fut bon pour l'abattoir. Allez par exemple en France où les cimetières se remplissent en 1914-1918 ou 1939-1945 de soldats indiens. Ces mêmes Indiens ne pouvaient choisir les hommes politiques qui les faisaient tuer. Il s'agissait d'un crime, il s'agissait d'une faute, n'est-ce pas ? Enfin!

Que nous ayons signé des traités solennels ou pas, vous avez occupé nos terres pour des fins mercantiles. Tout ceci est lamentable. Quand vous êtes arrivés, nous vous avons fait un accueil généreux. Dans nos langues, il

n'y avait pas de mot pour assimilation. Était-ce une erreur ?

Nous avons défini les institutions politiques et démocratiques. Mais, disiez-vous, nous vous apportons la belle et grande civilisation. Elle est belle et grande, la civilisation européenne, une fois imposée dans ce pays, c'est pourtant d'abord le refus de la dignité, d'égalité et de dialogue. Aujourd'hui, vous comprendrez facilement qu'il m'est impossible de me sentir Canadien dans les circonstances présentes. Je ne suis pas Canadien car vous, les émigrés, l'avez voulu ainsi. Je suis Huron et fier de l'être, je suis aussi Huron parce que vous refusez la construction d'une civilisation commune. Je suis pas seul dans ce cas. Regardez autour de vous et vous observerez l'absence de plusieurs Premières nations. Ces frères n'ont plus confiance en vous.

Pour que nous soyons en mesure de formuler un langage commun pour l'avenir, je voudrais vous poser quelques questions générales. Premièrement, oui ou non un Indien vaut-il un émigré ? Deuxièmement, voulez-vous poursuivre votre politique séculaire d'extinction de nos droits ? Troisièmement, voulez-vous vraiment entretenir des relations d'égal à égal ?

Vos réponses, même tacites, à ces questions seront capitales. Je vais vous dire pourquoi. Les Canadiens se scandalisent à juste titre à propos des massacres des peuples autochtones au Guatemala ou ailleurs. De telles politiques haineuses ont pour objectif une mort rapide des premiers occupants. Par contre, jusqu'ici, vous nous

promettez une mort lente. Où est la différence fondamentale ? Demain, l'avenir est difficile à prévoir, notre expérience nous pousse par contre à l'envisager avec le plus grand scepticisme. Ou bien nous nous reconnaissons le droit à la différence ou bien les lendemains seront sombres.

Le droit à la différence implique un minimum de mesures immédiates qui suivent: la reconnaissance constitutionnelle de notre identité distincte, l'autodétermination des Premières nations à travers nos institutions politiques et juridiques propres, la reprise en main de nos terres et de nos ressources, notre participation effective à tout processus de modification à la Constitution, la reconnaissance de nos langues et de nos cultures. Dites-vous bien qu'il ne s'agit là que d'un début timide. Je vous rappelle le problème du verre de vin, vous diriez qu'il est à moitié plein, moi, je vous dirais qu'il est à moitié vide.

Si nous adoptons ces propositions, nous avons encore un long chemin à parcourir.

Conclusion: nous nous trouvons à un tournant. Ou bien le droit à la différence prévaut ou bien le progrès est un escargot et la différence s'imposera d'elle-même. Nous resterons Indiens quoiqu'il arrive.

Il arrive aux émigrés de parler du tiers-monde. Vos gouvernements se vantent des programmes d'aide aux pays en voie de développement en Afrique ou ailleurs. Regardez autour de vous cependant, le quart-monde existe et il se trouve à cette table. Le quart-monde fier destiné à s'épanouir malgré ou en dépit de vos créations juridiques

souvent ternes et volontairement incompréhensibles. Cet épanouissement se fera avec vous, malgré vous ou contre vous.

Si j'étais parmi les dirigeants du pays, je profiterais de ce moment même de la Constitution pour réparer les injustices et arrêter ces problèmes qui grossissent de jour en jour. Merci.

LE PRESIDENT: Merci, monsieur Gros-Louis.

HON. JOHN BUCHANAN (Premier, Nova Scotia):

Just a few words, Mr. Prime Minister, on the equality issue and I hope maybe we might end it with a few words. I just want to reiterate the position as mentioned yesterday by our Minister, the position of Nova Scotia on equality. We understand of course that the present Section 28 does guarantee the rights and freedoms of a male and female and includes all Canadians, both aboriginal as well as non-aboriginal. Quite frankly, I fail to appreciate a lot of the discussion that is on equality here because I do believe that it is covered, but if it is not covered, and certainly I believe a number of the native women of Nova Scotia want and have a right to the assurance that the equality clause is entrenched, and a lot of them believe it is not at the present time. So, I think it is important that we reiterate our position again, that we agree that rights and freedoms referred to in Section 28 will apply or must apply equally to male and female aboriginal persons and I just wanted to make that closing point.

HON. JUDY EROLA (Minister of State - Mines) :

I welcome the sound of the voices of Indian women silent for so long. Your participation at this conference is an indication of the new awareness of your native leaders and of the provinces and I find it refreshing. Might I suggest that this awareness is due in part to the fight for equality to which you referred, Mr. Buchanan, and achieved by all women in this land, equality now enshrined in Section 28 of The Canadian Charter of Rights and Freedoms. I welcome today's discussions because they reflect the work of women over a very long period of time. That Section 28 in combination with Section 15 requires the deletion of the offending clauses in the Indian Act is not in question here today.

What the Indian women want, what they are asking for is for the future, a clear statement of equality under Section 35 to which this government has agreed and to which this government has been committed for a long period of time and I understand now to which we have all come to an agreement. Mr. Prime Minister, let the drafters begin.

THE CHAIRMAN: Thank you. Premier Hatfield?

HON. RICHARD HATFIELD: Mr. Chairman, I want to say, because I think it is important to understand that before we broke for lunch the inference was made that we were interfering with the rights of the Indian people, or the laws of the Indian people. I want to make it clear that Sandra Lovelace asked me if she could speak, she wrote what she said and she initiated her action with the help of other Indian women in New Brunswick before the United Nations. I want to say to the First Nations Assembly you cannot form a nation within this nation or you cannot form a nation of your own unless you recognize the equality of men and women and if you fail to do so you will be condemned by the United Nations just as our country, Canada, is in danger of being condemned by the United Nations. So, I want to make it clear, the interference is coming from the descendants of the First Nations people and you tell us that they are being treated equal but I cannot believe that that many people from that many parts of Canada are lying to me. They are not being treated equal.

I also want to point out what that means. That does not mean they are not being treated equally by a man on the street, it means whether or not they have a home, it means whether or not their children get a job, and that is

pretty important and needs to be corrected pretty quickly.

I am prepared to wait for the entrenchment in the constitution, but I think that we must accept this, regardless of what happens, there is no nation that is going to be able to sustain an inequality, regardless of custom, regardless of religion, regardless of anything and the Covenant of the United Nations makes that very clear. It is important to understand what it means. It is not the kind of conventional struggle of the liberation of women, it means shelter and it means care for children. It is a much more real thing in this situation.

I know that the Indian women are telling me the truth and I agree that the government of Canada is moving to try and correct it, but I think we must all understand the urgency of it and I do think that that is coming forth. I do want to make it clear that it was the Indian women who initiated it and all I gave was the permission to speak.

THE CHAIRMAN: Let me see. Jane Gottfreidson.

MISS JANE GOTTFREIDSON: Mr. Chairman, I would just like to clear up some matters. The Indian Act in itself had made us aware of the inequalities that can be legislated upon Indian people, and just changing or amending the Act is not enough. It doesn't protect us or ensure that this type of discrimination will not be repeated again, and that is why we were asking for a constitutional guarantee to ensure that native women will never again be subjected to this injustice. In order to be an Indian, to be an Indian person, you must be born Indian. It is a birthright and no individual, no institution can give it to you. We are saying with an equality clause that in any future aboriginal rights that are entrenched in the Canadian constitution, they would be subject to the equality clause. As far as traditional government goes, if true

traditional government is being practised then equality should not be a question.

THE CHAIRMAN: I have Mr. Lévesque and perhaps we should try and wind up this item fairly soon if we want to get on to self-government. I have Mr. Lévesque and Mr. Erasmus and one or two others. Monsieur Lévesque?

M. LEVESQUE: Très brièvement, monsieur le président, parce que je pense que la meilleure argumentation a été faite par les représentants autochtones et les représentantes autochtones elles-mêmes il y a quelques heures en ce qui concerne le Québec.

D'autre part, je peux très bien comprendre que dans certains milieux, chez certains peuples amérindiens, on soit réticent à ce sujet. Je crois savoir. Et je crois aussi que le Gouvernement fédéral à ce point de vue-là est parfaitement d'accord, mais évidemment se trouve pris en tenailles, là, est parfaitement d'accord soit pour élargir les clauses de lois, là, en fait, on nous parle, je pense, d'une reprise de la vieille loi sur les Indiens, ce qui malheureusement, si c'est vrai, viendrait renouveler la tutelle, mais d'une autre façon et c'est la tutelle fondamentalement qui est mauvaise.

Mais je comprends que parmi les réticences qu'on peut sentir du côté amérindien, il y a le fait que depuis, je sais pas, moi, depuis le siècle, depuis soixante-quinze ans probablement, j'ai pas la date, cette distorsion de légalité, cette distortion, c'est-à-dire cette inégalité statutaire entre les hommes et les femmes a été incorporée dans une loi. Je comprends aussi que, aux yeux de beaucoup d'Amérindiens et de leur porte-parole, ça va carrément contre leurs coutumes, leurs traditions telles qu'ils les interprètent, de se faire décréter par des Blancs essentiellement, dans une constitution dont ils n'ont pas vraiment la maîtrise - ils l'auront jamais - ni

même la certitude de participer pleinement, se faire décréter des choses comme ça. Je dois dire que le Québec est bien placé pour comprendre les fondements de cette attitude. Seulement, sauf erreur, les nations autochtones du Québec se rallient dans l'ensemble à ce principe d'égalité et nous avons commencé à l'appliquer dans la mesure de nos moyens, au Québec. Par conséquent, conformément à la position qui est nôtre ici, que nous avons, je pense, clairement expliquée, nous ne nous objectons pas, d'aucune façon, à un amendement constitutionnel qui irait dans le sens de l'égalité entre les hommes et les femmes en toutes circonstances.

THE CHAIRMAN: Mr. Erasmus.

MR. GEORGES ERASMUS: Thank you, Mr. Chairman.

I think there have to be a number of matters to be clarified here. We are not saying we are against equality. We have already clarified what our position is. We will support the clause going into the constitution, but for those people that have been after rights for so long, that is not going to necessarily give it to them at all and I tried to explain that this morning. The point that I was making was this and I gave the example of the north and it is the one I know the best and I am going to use it again.

We have been trying, at the negotiating table, for a number of years to have our membership recognized. It is not that traditional government doesn't exist. You won't find very many Dene that will tell you that they have given up the land and the right to self-government. It is there. We are not being recognized and the point I am making is this, and it is on the agenda and it has to be discussed at another time, we are prepared not to risk equality at this time, we are going to deal with it another time, but I think for the record I need to clarify some points.

Equality right now could mean Metis will be treated similarly, status will be treated similarly, non-status will be treated similarly between the sexes.

What about situations where you have a mixed membership, where some are treaty and some are non-treaty and the nation is saying we are all one people, we all want the same rights? The reality is that an equality clause going in doesn't resolve the issue. We need more than the equality clause, because I think by and large you will find that the native community wants their membership to have the same rights. Our problem has been we have not had control

over our membership. I really feel, Mr. Chairman, that we are flogging a dead horse. We have an agreement, let's get the equality clause in, but we have a real issue in the citizenship issue and if we have all of this goodwill from the federal government, that indeed they believe in equality, then I'm going to find at the negotiating table, the federal negotiator, that they are going to let the CYI give equal membership to all of their members and they are going to let the Dene know that there is no non-status Dene, that the rights that we want in our negotiated settlement will be the same across the board for all our members. We will be able to give rights back to women that have lost their rights and we will be able to give rights to those men and women that never signed a treaty but are Dene and have always lived there, because what is happening here is an absolute charade. It looks like we are the ones not prepared to give rights: absolute nonsense. The record speaks for itself.

The vice-president of the Dene nation is not sitting beside me at the moment, he is non-status. I am status. We firstly believe we have exactly the same rights.

The equality issue will not give him back his rights. It is not enough, we will deal with it at another day. We have agreed to equality, don't try and make us look like we're sexist, that is not the issue. We are a community of people, we want to control our affairs, including who in the blazes we are.

Thank you.

THE CHAIRMAN: Mr. Sanderson.

MR. SOLOMON SANDERSON: Mr. Chairman, I would suggest that you take charge of the chair and move into self-government if you wish for the next item.

THE CHAIRMAN: Shall I overrule Mr. Warren of the Native Council of Canada to show my authority, Mr. Sanderson? Mr. Warren.

MR. BOB WARREN: Thank you, Mr. Prime Minister. I agree that this should not be an issue that bogs down the conference, but I think it does beg the question as to what are the purposes of this conference. We are talking about the enshrinement of the rights of aboriginal people and if we are talking about that in a traditional sense, then I suppose I could ask all of my colleagues, including myself, after the conclusion of this conference and the success of it hopefully, are we prepared to resign and resort back to our traditions where that we bring forward our hereditary chiefs, resign as elected people that have been put into place by your own act and if we are prepared to do that, then fine, I don't think that equality clause raises any questions with us as native Indian peoples, because what we are faced with is a situation where we are all not living within the luxuries of the Dene nation, that the majority of our people are living in urban centres where we have no relationship to any of the bands and the tribal councils or whatever, and what we have to do is be able to have that process of being able to develop a system that is going to ensure and guarantee full participation of all

of those people that are not directly related to their band councils and that is what raises the question about the equality clause and about asking you to take a position on that to ensure to the nation and to the world and to our own people that we are going to have a guaranteed place in this whole process.

It is not giving authority, developing or structuring any kind of constitutional rights that are going to say that the government is going to be determining membership, because that is what we are getting away from, but what it is going to do is give every individual a right to have an expression in the policies and the process which determines membership and that is what the basic question is and that is what the women of Canada have been asking for, the native Indian women in particular, and we are totally supportive of.

MR. GEORGES ERASMUS: On that matter, Mr. Chairman, I am going to have to speak. There is no way that we are saying we are giving up our right to decide who our people are. I mean every nation knows who their members are. There is no way that equality means that a nation has to be dictated to as to who their members are. I mean the Dene know who they are, the same with the Haida. We are not agreeing to a law here that is going to make a Dene a Haida and vice-versa and I don't understand why this is being brought up. We have agreed to equality, let's put it into the constitution, let's deal with citizenship at another time.

THE CHAIRMAN: Well, God bless you if you are going to deal with citizenship. You will have to unjumble the past, from what I gather, between the two of you I think what has been positive in the past day and a half is that we have been trying to find, I think, that most useful of precept in politics, we have been trying to be just in our time and there has been the usual historical references and damnations of the devil and of colonialism and other forms of diabolical actions, but you know, I don't feel guilty for the past. Don't ask me to be repairing what was done wrong in the past. We are all -- we are all starting our lives today and as leaders of government or of groups, our task in this two days is to be just in our time and not to try to pay for what now appears to be errors of others, but what has been done in the best of faith, I am sure, by people who conceived and wrote the Indian Act one hundred years ago with the mentality that prevailed at that time.

I am not sure what you mean, Mr. Erasmus, by saying that you will decide who belongs to the Dene nation. I would have thought that it is to each individual to know whether he belongs or not and I don't think -- I don't think you are suggesting that you will compell people in any way to belong or not to belong, that is a problem you will have to solve in the future when you come to the question of citizenship and indeed we'll have to look at it another time, but I made it quite clear in my statement, and I believe several others did, that there is the citizenship of Canada which exists and which makes us all sit at this table and it is in the name of that citizenship that I think the equality question came forward, but there are certain fundamental values that go beyond tribes, beyond history, beyond recrimination, beyond French-English

differences, beyond east-west differences, certain values which we all hold common as Canadians, and I assume that since you are sitting at this table, you assume those values to be common too to you and as a matter of fact I gathered that from several of the presentations which made it clear that you understood yourselves to be within the nation of Canada and citizens of this nation of Canada.

If beyond that you want to have a tribal membership, I think it is for you to decide and for us to accept, providing we don't have to pay the consequences of what you decide, but these are things to be discussed in the future.

Simply I make these points because I thought we had been quite positive in the past day and a half and I understand that our Attorneys-General and draftsmen up there are making good progress and I wouldn't want their piece of paper to come down and see it undone because we haven't today managed to right all of the mistakes of the past and correct all of the errors that your forefathers and mine may have committed in the light of our hindsight.

With this preamble, let's get on to the question -- no, wait. I am told that the meeting upstairs has finished. It might be useful to adjourn for 15 minutes, not to ponder my words but to look at these texts so we can then come back in here and perhaps amongst ourselves, I mean each delegation for itself, decide what stand it will take. Is that agreeable, Mr. Erasmus?

MR. GEORGES ERASMUS: I agree to adjourning but I think some of your comments deserve some reply. You know, the country of Canada clearly knows who its citizens are in the same way in any other country, the same way as do the First Nations. We know that both issues survive and live in their own right. I mean, I don't think it was called for, what you just said. If you are saying that the only way that you understand equality is going to mean that people can't decide amongst themselves who they are, I mean, that is totally unfair. This country decides the qualifications of citizenship, et cetera. I mean, we would not be talking about working out the qualifications necessarily of citizenship, but we would work out who our people are and what rights they would have and thus the rights would be the same for all our members.

THE CHAIRMAN: Tell me about citizenship. I understand citizenship to be the belonging to a given nation of people at a given time, a nation which is sovereign in international law. You don't understand the same thing as that by citizenship, do you? You are talking about membership of a tribe, I take it?

MR. GEORGES ERASMUS: Yes. We are talking about the citizens of our nations and obviously our collective right would be a right to define our own people, and we would have to do it in a uniform, fair, humane way, obviously, and consistent. I don't want to continue talking about this because

I think we need to deal with it at another time, but what is happening is that people are saying that those people want to control citizenship because they want to take away the rights from women but that is not what we are talking about and let's not complicate the issue. Let's entrench equality at another time when we have equality worked out but let's talk about citizenship. What I am saying is this: among the Inuit, are there Inuit who have status and Inuit who don't have status or are we going to have the people defining themselves, they are all Inuit and they all have the same rights. I don't think their Northern Québec agreement gave them that.

The reality is in the Northwest Territories right now the Indian Act is being applied and there are women losing their rights right now in the north because the native people dominate the NWT government and when we can give them services we will disregard the Indian Act. All right? I mean, don't throw this back on us. We didn't write the Indian Act, and the position we put before the committee hearings on this were very clear, we wanted that rectified. We never, ever wanted a situation where you could have one family, a sister gets married to somebody and all of a sudden, immediately, the rights are different. I mean that ludicrous, ridiculous.

THE CHAIRMAN: Well ...

MR. GEORGES ERASMUS: All we are saying is that when we are talking about citizenship we will be talking about the collective rights of the overall membership to work out who they are. We can, however, leave that for another day and not belabour it. I understand the documents are here so let's take a break and look at them.

THE CHAIRMAN: You didn't write the Indian Act and we didn't write the Indian Act.

MR. GEORGES ERASMUS: Agreed.

THE CHAIRMAN: I propose to abolish the Indian Act and your people refuse. It was because we realize that we have to have a transitional period and that is what we are working at and all I wanted to make clear, because it seems to me that we were drifting a little bit since yesterday morning, is that I assume that we are all citizens of Canada; whether within this country we can form into groups or tribes or clans or extended families I think is guaranteed by the constitution, the right of association, and we can define ourselves within these groups, and I thought it was useful to recall to this continuing meeting that the premise on which we were all around the same table is that we are all members of the same country, all citizens of the same country. Now, I don't understand you to be arguing with that, it is not something I am throwing at you, it is something I am making clear as our position as the basis which brings us here today. Yes, Mr. Warren.

MR. BOB WARREN: Thank you, Mr. Prime Minister. Then, I think that what all the people in Canada need then, can we accept that we have an agreement here that the question of aboriginal rights is going to ensure the inclusion of all native Indian and aboriginal people in this country?

THE CHAIRMAN: Well, we have a text now. I think we might see if the answer to that question is in the text in a way which satisfies you. What I suggest, if members are agreeable, is that we take 15 minutes or even -- oh, the text is not ready. We are not ready to look at pieces of paper.

Can I take Mr. Sanderson's suggestion that we move on to self-government? On the discussion we have just been having, Mr. Erasmus, what is self-government, I indicated in my opening statement yesterday that I was prepared to recognize it and it would be useful, and I indicated various aspects which in my view it could take and I am prepared to repeat them as it could be self-government under the municipal law, under the provincial law or it could be some other form of self-government. I take it that whoever self-governs one's self could declare that you are members of that nation or citizens of that nation in that particular sense or you could call yourselves citizens of a city or of a group. Does anyone want to lead off on this? Premier Lougheed?

HON. PETER LOUGHEED: Well, perhaps the aboriginal groups who are here could answer the question. On the submissions with regard to self-government, to what extent does that mean that they would not be subjected to the responsibilities of meeting the laws of the provinces, presuming they were living obviously within one of the provinces of Canada?

THE CHAIRMAN: Mr. Erasmus?

MR. GEORGES ERASMUS: Mr. Chairman, I would love to get into this discussion but I find myself in a peculiar situation. Our delegation wants to have a little caucus on what is going on with the drafting. I wonder if we could take that 15-minute break.

THE CHAIRMAN: Can I check how soon the papers will be down so that we can all see them? Do we have a -- just one moment. Could I put this point to you: apparently they have finished their deliberations but are in the process of writing them out and before they are written out in both

official languages and reproduced so we can all have copies to work on it might take as much as half an hour. We can break now if you wish, but I would put it to you, is it not preferable that you break when you have a piece of paper and then consult among yourselves?

MR. GEORGES ERASMUS: I am not sure,
Mr. Chairman. I was asked to get up there as quickly as I could.

THE CHAIRMAN: Maybe we can carry on without you.

--- (Laughter)

MR. GEORGES ERASMUS: I guess we are staying.

MR. SOLOMON SANDERSON: They say they don't trust you so we have to stay.

THE CHAIRMAN: I don't blame them. Okay, then does anyone want to tackle Premier Lougheed's question? Mr. Gould?

MR. GARY GOULD (President of the New Brunswick Association of Metis and Non-Status Indians, Native Council of Canada): Thank you, Mr. Prime Minister. The issue of self-government is indeed a very ticklish issue because every time the issue is brought up the boogeymen come out of the closets and provincial governments and the federal government always seem to be trying to put the fear that aboriginal people are talking about something that either never existed or that is going to tear the fabric of this country apart. I don't think that that in all honesty is what we are talking about. What the Native Council of Canada is trying to get across, and we have presented papers on this, it is obvious from some of the questions and some of the dialogue from the

delegations, that those papers haven't been read, and that is why we have got to say very clearly that our concept of self-government may be different than what the AFN is proposing, it may be different from what the I.C.N.I. is proposing, but what we are trying to guarantee is that the aboriginal nations, the aboriginal peoples, Indian, Inuit and Metis, have an opportunity to pursue a form of government within the Canadian Federation. Now, if you look at the I.C.N.I. documents, if you look at the Metis documents and you look at our documents, we are saying almost identically the same thing.

Mr. Warren began his dialogue by saying that we are concerned that some people are not presently part and parcel of the forms of self-government that exist today, band governments or tribal governments. We believe that aboriginal peoples should be able to participate in any government that is designated as an aboriginal government, be it the type of government that the Dene are going to be talking about, and I think Georges said that they would guarantee that in the future, and when they get into their notion of self-government, that all Dene would participate and that is our concern.

Self-government to the Native Council of Canada is I think -- right now it is a conceptual idea we have, that we want to pursue in the on-going process but what we are afraid is happening is that we are not even hearing if the provincial governments are willing to extend the notion of a form of self-government to the aboriginal people. The only thing I am hearing, and our delegation is hearing is that you have one option open to you and that is to assimilate into society and accept our form of government which historically has never allowed aboriginal people to be the one thing that they are, aboriginal people.

Hopefully in the constitutional process that has begun and hopefully will continue, and I guess we'll know in another half-hour if it is going to continue, hopefully governments are willing to sit down in a meaningful fashion and talk about alternative forms of government in which the aboriginal peoples, the aboriginal nations can firstly be aboriginal peoples and secondly, have a degree of self-government and that could be three or four options, and I think you covered that, Mr. Prime Minister, in your statement.

The problem is that we are not hearing any feed-back whether even the concept or the notion of forms of self government are acceptable and that is why our group and many of the other groups are becoming very frustrated. You are always attacking. Nobody is sitting down in a meaningful fashion and willing to negotiate. Either this is what you are doing, the boogiemans concept, or that is a non-starter, and I think there ought to be in the ongoing process, the principle that we will look at self-government.

Now, how far they will go in one direction or how far we are going to have to give and take, hopefully we can negotiate things out, but we have presented papers, the I.C.N.I. have presented papers, but we never hear any feed-back, and in this conference we had hoped that you would have done your homework and read some of our positions and been able to come here in an intelligible fashion and deal with them, but it is obvious that that hasn't taken place.

HON. PETER LOUGHEED: I read the document. I asked the question and I would like to have some answers, but I guess that is for the ongoing process.

THE CHAIRMAN: Well, you have special legislation regarding the Metis in Alberta. What form of self-government do they have under that legislation, Premier Lougheed?

HON. PETER LOUGHEED: They are in the process of establishing a self-government process within their own settlement and that is why we have the Metis Betterment and we are reviewing the legislation to determine whether or not it is adequate. The Metis Association themselves, and I have been reading of course the Metis National Council brief as well, are looking at the expansion of some of those ideas in terms of self-government. I am trying to get a feel for whether they are talking about self-government in the sense that it would be comparable to the municipalities or whether it is more than that. It involves, of course, some obvious cultural aspects that need to be involved. I am trying to understand it. I am finding it difficult though, when I ask a straightforward question to be saying that I am attacking it when I am really trying to understand it. I really don't think that that is fair at all.

THE CHAIRMAN: Mr. Gould.

MR. GARY GOULD: Mr. Prime Minister, the Native Council of Canada was very clear in its proposal on self-government that was tabled at one of the working groups. We are talking about a form of self-government within the Canadian Confederation.

We went as far as to say that one notion of our self-government would involve our own members of

Parliament within the House of Commons and within provincial legislatures.

Now, I think we have been clear in our position papers on the form of self-government that we would like to pursue. I think Charlie Watt and the I.C.N.I. have been honest and frank about this. I think the AFN, and again I am not attacking Mr. Lougheed. This is the first time that Mr. Lougheed has been at a conference where we have had a chance to exchange points of view and I am sure the Metis people and the Indian people in Alberta are willing to sit down and continue an ongoing process of identifying the forms of self-government that they think would be fit.

I think what we need to look at is a process within which you, the governments of this country, are willing to accept that there can be, within this country, aboriginal forms of self-government and if you can accept that notion, and we can get at a stage where we are going to negotiate the different forms, then I think we are off and running.

THE CHAIRMAN: Premier Lougheed says in their own province they are looking at it. Why do you say we haven't done our homework?

MR. GARY GOULD: Why would Mr. Lougheed ask us here, what do you think your form of self-government should be when we have already laid that down on paper?

THE CHAIRMAN: Well, because he would like to hear your views. I would like to hear your views. In this self-government, for instance, would there be only Metis or would you permit other people to live in the area and would they have citizenship rights in the area? Would they participate in the government or is this an ethnically-based form of self-government? These are interesting

questions. We would like to hear your views on them.

MR. GARY GOULD: Again, they are details, Mr. Prime Minister, that we have prepared information on. I think the reality is -- the position that the Native Council of Canada has might be different than what the AFN has or the ICNI has. Our position, first of all, for the province that I come from, Metis and non-status Indians people can't participate in the aboriginal forms of government that exist there called bands. Our position in our province is that they should be eligible to participate in the bands if they so wish. They can't because of the Indian Act.

Many non-status, I'll use the non-status category in my province, many of them, even if they could return to their bands, wouldn't because they have lived off the reserve for years. There must be a way in which those people can find a way to participate in a form of self-government and there can be different models and those things need to be explored.

Now, again we don't have comprehensive land claims in our province. Some day we might. When we get to that level, we are willing to sit down and look at how people who would reside in our geographic base would all participate in it and those things can be negotiated as we go along. I think what we have got to do here is lay the framework out that there are acceptable principles or notions from which the ongoing process can be measured, and I think that is our concern from the Native Council of Canada.

THE CHAIRMAN: I have Mr. Sinclair, Premier Pawley and Mr. Braden.

MR. JIM SINCLAIR: If I could look at it in a little different way, I think the Metis have not been involved as citizens of this country for the past one hundred years. When they lost their lands and lost the war,

they even lost their citizenship and even though the country had pretended to represent them, it has not. So my proposal is the fact that we are trying to get back into Confederation, not get out. We have been out for the last one hundred years.

Now, the conditions of getting back in, of course, I suppose would be a form of self-government and again we made it very clear yesterday that we didn't want to start with the aboriginal title concept because it was too far to one extreme well as the other extreme of total government domination and I think this is where we fit in quite well because we are going to begin to talk about self-governing structures. The past has not worked simply because we have had no control over our own lives and, therefore, governments have made decisions for us and about us and this has caused the -- this has resulted in the numbers of people that we have in the jails across Canada, particularly across the Prairies. The number of people we have on welfare, the number of people who have committed suicide. Somebody mentioned those the other day and I think the lack of education, and that is because we have had no control over our own lives. If you just use education as one example, how would you like to be paying taxes like some of us are and have your children go to school to be brain-washed to hate your own people? You would not send your children to that type of a school and that is what I am forced to do, to send my children to a school where they become brain-washed to hate their own people and to refuse to

even identify themselves as Metis or Indians.

Now, we want to change that and I think in order to change that, we must have some control over the education system and I don't mean total control. If you are going to train to be a doctor, then you must train to be a doctor and there are certain things you must know, or a lawyer and you must know the laws of this country, but there are certainly historic cultures and customs that we must have ourselves that must be taught to our children to teach them some pride and some self-identity.

Now, when you put that into a self-governing concept, we are not going to violate the rights of other Canadians. We want a partnership in this country and the type of self-government we are looking for should be to control our own lives and decide our own future and make our own mistakes and spend our own money and work for our own money. That is what we want to do and if you want to use something for starters, then the Alberta settlements would be good starters. We want to develop from maybe system like that, but your self-government must begin with the land base. A government without a land base doesn't just exist.

So we must have a land base to begin with and the kind of self-government we set on that land base, we would sit down very clearly and discuss with the governments involved, and, of course, that becomes the federal and provincial governments. It must outline our responsibilities and the federal and provincial government responsibilities as well. Too much of the dollars have been wasted and, as I said in my opening statement, there has been a lot of money directed towards native people that never got to the native people.

There are a lot of people who make a handsome living off of us, including Indians, right now and we must set it up and we must begin that transition where you have a form of democracy other than the delegate system to represent the native peoples' needs, and that is the conditions we are in today, so a self-government would also put more responsibility onto our people, which we are prepared to accept. It would also make it very clear, the provinces' responsibility, the federal government's responsibility and I think you mentioned in your speech yesterday, you were prepared to go along with a limited form of self-government.

Now, that limited form of self-government is understandable, but it is starters, and I am prepared to sit down and discuss that idea and build on that concept. However, I am not prepared to say that we want sovereignty or we expect sovereignty, because those are non-starters. However, because we are asking for a limited form of self-government, we would also like some representation in Parliament, because we just cannot get the votes, the numbers to turn out to support a candidate who will speak for our views and really be heard, so we must have some representation in government, in Parliament, and I think that is part of our self-governing structure. It must be a little different than a municipality, because we should and must control those resources, because the money from those resources will help build our institutions. That money from those resources will help us look after ourselves and invest in that economic opportunity. The money, the billion dollars that was looked over the past

couple of years and there was a study done by the federal government and there was a million dollars, a billion dollars being wasted on native people across western Canada.

Now, that is being wasted because it came in the form of welfare and building jails and providing money to the courts and to the police and to the social workers. That money must be taken back and reinvested through native people to help them build themselves, rather than to keep them incarcerated and destroy their culture and destroy their future. That is what self-government means to me. I am not trying to scare anybody here, I am just saying that we have been out of the Confederation since it began, we want in and we would like to get in in the form of some self-government.

THE CHAIRMAN: But the way you describe it, Mr. Sinclair, you will always be peoples apart. You are complaining now about the suicide and so on, but in fifty years from now, how do you know that self-government, assuming that you are going to always be a small minority within the overall Canadian nation, how do you know, in what way will you be integrated? I don't say assimilated, I say integrated into the Canadian nation?

MR. JIM SINCLAIR: We can't give you the full answers to that, however I can tell you it will change from our position where we are today. I don't think we can get much worse off than we are today. What I would suggest again is that the training institutions, the development and the housing and that we put on a land base now and self-government and our structure is based on what Alberta started to build and that would help us prepare our people for the outside.

That is where we face the problems on the streets of the urban centres, in the ghettos of these communities because our people come out not prepared for those ghettos. If you tried to understand the people in the north in particular, where we have a hard education system that forces our children into the schools until they are in grade eight and then they are sent out of the schools because there is no money left and what has happened is that the parents have not had the time to teach them the customs of trapping, hunting and fishing. Then they are taken away from that family and when they finish their school up to grade eight or become 15 years old then the white man no longer wants any responsibility for them so they are left in limbo where they are of no value to their own communities and of no value to the white community and as a result you have people who are just getting ready for the welfare system. Now, will we change that and that is what I am saying? We can't lose, we can only gain, and if you want to look at integration we are prepared to do that but we must prepare our people for the outside world. You have programs, you have even in your constitution that you are calling affirmative action but why should you give an Indian a job because he has got a brown face? That is discrimination. We don't want to practise discrimination or racism against anybody but I want my people to be properly trained for the jobs they will apply for and we can do that and then they can go and try and get that job on an equal basis, equally trained, and if they are refused a job then we have a complaint and until that, if you are going to force companies and if you are going to force governments to hire Indian people just because they are Indian people and are not prepared for the job then we will all lose and you will sort of perpetuate this racism and this idea that Indians are no good for nothing forever.

THE CHAIRMAN: Mr. Braden?

HON. GEORGE BRADEN: Thank you, Mr. Chairman, I will try and respond a bit to Premier Lougheed's question from a northern perspective and I will be very brief and then I would ask my colleague, Mr. Wah-Shee, to comment a little bit as well. Yesterday we were talking about aboriginal title and I felt that in our discussion we did reflect a bit on the concept of self-government and also I felt, Mr. Prime Minister, that Mark Gordon of ICNI offered an example of how concepts of self-government have been recognized and reflected in the James Bay Agreement. I think he did a good job of trying to explain in a very brief amount of time how the Inuit in Northern Québec tried to bring self-government to that part of Québec, to the people there and through institutions which were recognized in Québec law and in federal law. Now, in the Northwest Territories we are examining with aboriginal organizations various options for the development of what I would call private institutions where native people would have almost exclusive jurisdiction over matters affecting them. For example the Inuvialuit who are the native people residing in the Mackenzie Delta, the Beaufort Sea area, have through their agreement in principle obtained surface and sub-surface rights to lands which will eventually be ceded to them. Obviously they are going to need institutions to manage and administer these resources that they will eventually own. Just to give you an example, gravel. They have rights to gravel. So, they have set up institutions to manage this particular resource.

Obviously there are other situations where they

have a direct interest, where they are going to have to work with a public institution. There is going to have to be a meshing, so to speak, of private and public institutions and a case in point is the Porcupine caribou herd which migrates from Alaska into the Yukon and into the Northwest Territories. Now, while there is still a lot of work to be done on the institution for management of this resource, I am pretty confident that the Inuvialuit, through their private institution, will be able to work with the public institution to manage that resource which is very key and very crucial to the Inuvialuit as it is crucial to the aboriginal people of the Yukon and Alaska. So, that just gives you a very brief statement on how we are looking at the evolution of the concept of self-government in one particular way. I will ask my colleague, Mr. Wah-Shee, to reflect a bit further on the kinds of things that we are trying to do up there as well.

THE CHAIRMAN: Mr. Wah-Shee?

THE HON. JAMES WAH-SHEE (Minister, Aboriginal Rights and Constitutional Development, Northwest Territories): Thank you, Mr. Chairman. This whole discussion on the whole area of self-government I think is not necessarily a new idea. At the preparatory meeting, I made some general remarks in that area to your various officials. I do believe that self-government is a very important part of the constitutional development, particularly in regard to the aboriginal people. Just to give you some idea of what we are exploring in the Northwest Territories is in the area of having communities forming community councils which may consist of band councils and the existing municipal councils. It may be a merger arrangement with regard to the Dene people and in the Eastern

Arctic you don't have this unique situation with regard to band councils as such.

However, the kinds of things that we are looking at at the present time is also going beyond not only being responsible for a municipal type of service activity that would normally be vested in the municipal jurisdiction, we are looking into areas of regional councils, tribal councils which may be similar in terms of concept to what you may have in the Southwestern United States, on the Navajo reservations, for instance. They have a unique relationship with the surrounding three states and as well they have a relationship with the Federal Bureau of Indian Affairs in the United States. So, we are looking at different concepts and the whole area of tribal councils naturally would have to be negotiated with the government of the Northwest Territories and the regional group involved, and they may be interested in sharing the responsibility for instance in the area of education. We are looking at setting up divisional boards which will have representation from a given geographic area. They may get involved in the social programs, the delivery, they may want to get into the policy area of what type of responsibility is associated with social services they may wish to undertake. That may go into other areas like recreation, and it may be in the area of economic development, in the area of training, because as you know with the claims process and the conclusion to those aboriginal claims, there will be a need for more training so that the aboriginal people can take on the responsibility of running various corporations, for instance. They may wish to get into the whole area of the type of policy or delivery programs that we have in economic development.

Now, it may also be in the area of housing. So, the general concept as I see it is that every region will be fairly unique and this self-government in respect of aboriginal people will require negotiated arrangements with the provinces, with your own provincial aboriginal organizations. It may be that you may find that the aboriginal people want to have a shared provincial jurisdiction with the provinces. It may be that they want to acquire some of the jurisdiction that is presently under the federal government.

So, each definition of what self-government means will certainly vary, like I have indicated; however I don't think that we should be too cautious or too overly concerned in regards to what kinds of implications this would have in regard to the provinces. I understand perhaps some of the concerns that are perhaps being expressed by some of the provinces, however there is a real need to change situations within our own provinces and territories. So, like I indicated earlier, before, at the present time the aboriginal people do not fully participate in the existing municipal structures that you have in the provinces and I think that there is a need to have another political institution or structures in place to allow the aboriginal people to fully participate, and this will allow them to run their own affairs and make decisions that really directly affect the aboriginal people.

So, in doing so, I think that we will have to look at a variety of concepts and it may be that the desire is that in places where you have reservations exclusively it may be desirable to look at exclusively ethnic types of political institutions on reservations. You have band councils

on reservations now and I think perhaps there may be a desire for them to share some of the provincial jurisdiction as well as additional jurisdiction that perhaps is presently vested under the Department of Indian and Northern Affairs.

So, there is a variety of approach that I could see and what is necessarily good for the Northwest Territories may not be necessarily good or would be in the best interests of the other parts of Canada and it may be that the aboriginal groups in those different provinces may not want to take on these various responsibilities and jurisdictions, so for what it is worth I would say the whole area is negotiable and it has to be a negotiated arrangement with the various provinces and so I don't see a situation where we would come up with an insertion in the constitution which will necessarily override the provinces, because it does require cooperation from my perspective. It requires the cooperation of the aboriginal groups and perhaps -- I see this particular item as being part of the ongoing process, because it is rather complex and all of us need a little time to take a look at the various concepts and proposals and perhaps you may wish to look at the implications.

So from that, I would say that perhaps there is a possibility that we could look at broad principles of self-government perhaps, which may be entrenched. However, I think that it is about time anyway that at this point in time in 1983 when we are addressing ourselves to aboriginal rights and entrenching in the constitution that there is a desire and I think there is a need for fundamental change to get more aboriginal people participating.

I am sure that you must appreciate that there is a problem in the provinces, there is a problem in

the territories, there are problems that even the existing arrangement perhaps with the federal government in regards to reservations and the kinds of authority and influence that the Department of Indian Affairs has over the status Indians, for example. I think there is that, so there is a real need for change, and it requires a better understanding, I believe, and so I don't think we should be too hasty in being a reactionary to new concepts in regards to involving the aboriginal people.

Thank you, Mr. Chairman.

THE CHAIRMAN: On the point of order, I have Mr. Watt and Mr. Amagoalik, Mr. Sanderson, over and above the two Premiers who have been asking for the floor for quite a while, Premier Pawley and Premier Lévesque and Premier Hatfield.

So I think that we should hear from the representatives of the native groups and then from those Premiers that I have named. We are beginning to get papers down from up there, so I would say that at 4:00 o'clock at the latest I will then adjourn to give us time to look at those papers. We don't have to finish this subject of self-government today. I agree with Mr. Wah-Shee who made, I think, an excellent presentation that we should put this into the ongoing process. Let's hear from Mr. Watt then.

MR. CHARLIE WATT: Thank you, Mr. Chairman.

Let me begin by saying that the division of power always generates problems, as you know very well, under the present system. Because of that division of power, Mr. Prime Minister, the federal government has to have responsibility and jurisdiction over the matters which are under the federal jurisdictions, which from time to time they do affect us and our daily lives

and it also affects our value, whether the value is related to social matters or whether the value is related to the economy or whether the value is related to the education or whether the values are related to marine life or the sea or the land or environment or land-use planning.

The same things pretty well apply to the provincial governments. The values of our lifestyle have not always taken into account when certain aspects related to activities in our territories are implemented, such as development, oil development or mining development or what-not, or even in regards to social order.

In regards to the self-government concept, Prime Minister, we do have a self-government concept already in place. I am basically talking about northern Québec itself and there is also a notion of a beginning of self-government already in the motion in the Northwest Territories which deals with the division of the Northwest Territories.

Hopefully in the future by utilizing the institutions that are quite familiar to your people that our value would be taken into account, but not only taking into account, Prime Minister, we will also require the definite requirement that is there for aboriginal people to have an input into those institutions. Without having aboriginal people putting input into those political institutions, Prime Minister, one thing that we know quite well is that our value will never be taken into account, because I come from a different area from where you come from.

In order for me to implement my value properly and sufficiently and be protected and to continue to stay alive and to grow since the culture evolves, it doesn't idle, I do have to have an input into those political institutions, not only in the local activities, Prime Minister, not only in the regional activities, not only in the territories, but we also have to put input into the provincial government. We also have to put input into the federal government.

By saying this, Mr. Prime Minister, we have to have an input into those two levels of order that are already in place, unless some time down the road you might learn to accept and learn to appreciate that some aspects which are under the federal jurisdictions, which are under the provincial jurisdiction, might have have to be examined. I am counting on some time down the road through the process we will be in a position to examine those values which I talk of, what would be the best way to deal with those matters. Is it better to remain under the federal jurisdictions or better to remain under the provincial jurisdictions or should we also consider the fact that there might be a possibility, it might not be Trudeau-power that would be put in place but it might be the beginning, to be able to begin to extract some areas that could be clarified and justified that should have no direct link with the provincial, which should not have a direct link with the federal government, we might have to consider the fact that some time down the road in the future, to consider the fact of establishing a third level of order. But that is a long way from now, Mr. Prime Minister.

Those matters, I feel, through the process can be examined. They can be sufficiently covered and evaluated as to which way would be the best way to deal with them.

In order to have a self-government in place, if I understood this society correctly, at the present time there are only two levels of order in this country. We have accepted some time ago as aboriginal people, as the Inuit, to try to utilize what is available to us by means of a tool. To me the political institution is nothing more than the tools. What values you put into those political institutions is what counts and I think it might be premature to think in terms that we might be able to generate something totally different from what type of mechanism is already in place. Some of us might come to realize that it is better to put an institution in place, something that we can understand, something that you people can understand so that we can relate to one another. I think this is very important and I am pretty sure sometime down the road that we will come to realize that, that political institutions will have to fall in line and look at it in the sense that they are just the tools, that the value is what counts.

This is what we mean by self-government, Mr. Prime Minister, and I want to make that very clear, because our values do not, and they have not been and they will not be in the future, taken into account unless you allow us to have a place within the society to be able to speak out in our own voice, to be able to indicate what values are important to use, because those values,

what we consider are important to us could also be important to you.

Let me use an example of what goes on in the north, in the Arctic. Right now the society is geared towards what you call, more towards economic development. We have no problem with that, Mr. Prime Minister. We do require an economic base as well as you do, but the fact is we have to understand in the sense of looking at it, oil development, the energy requirements that Canada requires, the United States and the rest of the world requires in the line of fuel, in the line of resources, but there is the other side of the coin, Mr. Prime Minister, that you have to eat also. As I remember earlier on, you stated very clearly that one of our rights is that we have to eat, and I agree with you, Mr. Prime Minister, certainly.

For that reason, Mr. Prime Minister, we do not have a farm like you do down south. We don't live exactly the same way as you do. The game that we depend on for clothing, to feed ourselves, to trade sometimes, most of the time I would say, Mr. Prime Minister, they don't take them into account.

When the oil company comes up to me and says, "Look, I am going to have the best environmental procedure in place and you don't have to worry about the game that you depend on to clothe yourself, to feed yourself and to trade yourself," Mr. Prime Minister, that is just a word.

This is one of the reasons why, Mr. Prime Minister, we are here in front of you, to talk in the context of constitutional protections, constitutional guarantees, because those values are very, very important values which one day, which even today on a daily basis you require also.

Mr. Prime Minister, I am not only talking to you but to the rest of the provinces also, because those are very crucial important livelihoods of our people which is also the livelihood of yours. Therefore, Mr. Prime Minister, this is what I mean by self-government; values have to be taken into account. Those values are important and I want to emphasize it pretty strongly because the general public of Canada are watching us.

Now, over yesterday I have not said too much, simply because you are locked into some of the nitty-gritty arguments, but look at it in a little larger sense, Mr. Prime Minister, along with the Premiers sitting around us, sitting around this table here. Look at it in the context that we have to accommodate each other. We talked about discrimination today. Yes, there is a certain amount of discrimination, not only within the native context, Mr. Prime Minister, but there is also discrimination from the non-native people to the native people and whether you call that discrimination or not, that is not the real important thing, the important thing is to be able to recognize the true values. Now, what does it do to me and what am I doing to you? I think that that is the case.

Mr. Prime Minister, and I don't want to go on and sound like -- what do you call a person from Europe making a speech -- anyway, Mr. Prime Minister, I want you to take those views very seriously and also along with that the provinces here, this is what we mean by self-government as the values are important. Since we have encouraged ourselves upstairs today I think we did come to an agreement which we still have to see today and on the process that will be put in

place we will be judging those areas and determining what those values really mean to us, to you and to us. For God's sake, Mr. Prime Minister, give us the room. Thank you.

THE CHAIRMAN: Thank you, Mr. Watt.

Mr. Amagoalik?

MR. JOHN AMAGOALIK: Thank you, Mr. Prime Minister. When native people start talking about self-government and self-determination, it usually sends chills down people's spines and the reaction of Mr. Lougheed was very typical of what we have experienced in the Northwest Territories when we first started talking about dividing the existing Northwest Territories and creating a new territory to be called Nunavut in the Eastern Arctic. This is exactly what we ran into, but, things have changed. We have made arguments and we have convinced those people that what we want is not going to hurt them, it will not take things away from them.

Now, our need for self-government is different from the need for self-government among the Indian people, and it is different not because our concept of self-government is different but because of the fact that we live in the Arctic where we are the majority. We out-number non-Inuit by about nine to one. So, because of that, we find it easier, let's say easier, as compared to the Indians, easier to get things done and as Mr. Wah-Shee pointed out there are processes going on in the north, processes towards self-government and yesterday we passed around a brochure called "Nunavut: A New Partner In Confederation". That process is well on its way. The Minister responsible for Aboriginal Rights and Constitutional Development in the Northwest Territories, Mr. Dennis Patterson is the Chairman of a forum, a constitutional forum which is doing

the work of preparing a constitution for the new territory.

Also you are aware that there was a degree of some form of regional government agreed to in the James Bay Agreement, but we recognize the fact that we need to strengthen and we need to strengthen that to make it more effective. As Mr. Wah-Shee pointed out, we are examining forms of native self-government which we would like to consider down the road. However, at the moment we are pursuing our need for self-government through existing institutions, through -- by the fact that we are a majority.

Now, what does self-government mean to the Inuit? To us it simply means being master in your own house because that does not exist among native people in Canada. It does not exist, we are not masters in our own house, and by being or by saying master in our own house we mean that we must take part in the management of our lands and our resources. We have the right to determine how our children are educated; the right to foster the kinds of values which will govern our society, and it means the right to retain and promote the use of our language, a language which is alive and well, and I think the living proof of that is up there (indicating). Inuktitut is the third language in this conference. That is proof positive that our language is alive and well and that we intend to keep it that way.

Now, when we talk about self-government, we are not challenging Canada's sovereignty. Even though we have been, even though we have helped Canada's sovereignty in the north by virtue of our occupation, we are not challenging it. We will defend our lands from uncontrolled development, but we will also respect and defend Canada's territorial integrity.

Now, as I said in the beginning, when we talk about self-government people are afraid, but I don't think people need to be afraid. Unfortunately, too often when we are trying to do these things, the people in Southern Canada and political leaders tend to see this as a problem. I think it is about time that we started looking at this not as a problem but as an opportunity because what is a constitution? A constitution is something that defines how a people and a country is governed and what kind of relationships governments will have with its people, and this is what we are doing. If we fail, then Canada is in limbo again. We are in trouble again. As I said in our opening remarks, Canada can only exist in peace if the people of Canada will accept the fact that Canada is a partnership between three nations, the English, the French and the aboriginal peoples. If that is not accepted, if that does not become a reality, we will never enjoy political stability.

So, I think that it is very important that we succeed in agreeing to something in this conference because even if we don't, you know, a lot of people talk about being afraid that this conference is going to fail, and maybe it will, maybe it will, but I am not that concerned about it because even if the conference fails I will still be alive, I will still be knocking at your door, at everybody's door, and even if I am not successful, and I have two children across the street watching me on TV right now and they will be knocking at your door. Thank you, Mr. Prime Minister.

THE CHAIRMAN: All right. I am well past the time I said I would adjourn but I think in fairness I should hear briefly, hopefully, from the three people I mentioned,

Mr. Sanderson, Premier Pawley and Premier Levesque. Mr. Erasmus, if you will, but around 5:30 we will lose all the players and I think it would be important, and we know that the text is ready, it is finished, it is being processed and we could adjourn in a few minutes to work on it. So, anybody who speaks on it is partly responsible for the failure of the conference we are having.

MR. GEORGES ERASMUS: I am going to add a brief statement to what Sol has to say.

THE CHAIRMAN: I recognize you as part of the team.

MR. SOLOMON SANDERSON: The spirit of the psychological strategy, Mr. Chairman, and I just want to say that the item we are discussing now is central to everything we are doing and if it fails, if this one fails, then everything has failed up until now because we have not fully addressed this central issue. With that, Mr. Chairman, I would like to try to clarify for yourself and the many First Ministers here, for the people of Canada who are listening, by giving some examples. First of all, historically, Mr. Chairman, we can't let go of the relationships that were put in place by our forefathers. Those are very real to us. They have been the basis of a lot of the Canada-Indian relations today and I speak of the Royal Proclamation that recognized nationhood status for Indians, recognized the title we had in resources and lands, it recognized the process of treaty which in many cases exists across the country. That treaty or those treaties are required to remain at the highest level of responsibility with the central government and must remain there. Other issues,

Mr. Chairman, with respect to the issue at hand is that in dealing with self-government as it applies to our people, when it was legislated as a practice that was outlawed in history in Canada, including our cultural institutions being outlawed, we were denied to practice those formally and exercise our jurisdiction formally and I am not trying to lay a guilt trip on yourself or anyone else in Canada seeing that there is a will here now by the First Ministers of Canada as statesmen to leave the door open to define these areas further, we welcome that opportunity and I want to say that in dealing with that question there is a very broad area that we have to work within, as suggested by the many speakers here, we say assimilation is out, we say that the degree of sovereignty for Indian government, self-government is out in terms of total independence.

We are certainly people that have tried to work out a partnership arrangement in Canada for some time. Those areas that are governed by treaties, the treaties are specifically dealing with political and economic relationships. The forms of government that we are looking at differ between the areas across Canada, but they are basically similar in addressing our concerns.

First of all, Premier Hatfield was expressing earlier on today some concern about our economic conditions as they apply to men and women generally. I want to say that any society that has lost the degree of control over education, over economics, over their cultural and spiritual institutions, over their political institutions will suffer from the same kind of conditions that you see there now. Those are only symptoms, Mr. Premier, of the loss of the degree of control that we have in terms of controlling our institutions.

We can cite all of the conditions that are there and the government programs have been designed to try to deal with those symptom problems. We are saying that we have some answers and we can deal with those by effective control of our political institutions, our economic institutions, our educational institutions and so on.

The Prime Minister asked about the possibility of integration. Mr. Prime Minister, we have tried personally to try to integrate with your society for many years through your institutions. We lost badly. Now we are saying that we can agree to looking at some form of integration through our institutions with mutual respect.

An example, Premier Lougheed, of the question you asked about the general application of law. It would be very difficult for us to accept a general application of law that isn't legislated by the provincial governments across Canada because of the inherent conflict that is there on the part of the federal legislatures to represent their peoples' interests more clearly than they would have to represent ours with respect to the special rights that are guaranteed in the treaties and the other areas of aboriginal rights. We have to recognize that difficulty, so in addressing the construction of law, the country has to adopt and recognize that for us to exist and for our institutions to exist like we want to control them, we have to have acceptance of the construction of law by Indians for Indians, just like we have accepted the two systems of law in Canada as they apply to Canada now. We have the Civil Code in the province of Québec that is French law, we have the common law system applied to the rest of Canada, yet we use similar police forces, similar institutions that are acceptable to people generally. We are saying a similar type of thing, Mr. Chairman, in that time has arrived for us not to be locked in by any process, but to start challenging, picking up your challenge and working out inter-governmental relationships at all levels. We are saying that, for example, we talk about an integrated institution where we have and can construct Indian laws on clear areas of reserves. There is no reason why we can't see those enforced by the RCMP by extending their jurisdiction and cross-deputizing them to enforce Indian law under Indian jurisdiction when they are on reserves.

Off reserves they can continue to apply the provincial laws generally. Now that is one example of a way that we can deal with those questions and those jurisdictional questions, but also that kind of an approach would serve to cut costs in terms of operations. Some people have chosen to set up their own separate police forces. We would reserve that right for some of our bands, just as the province of Québec has its own police force and other provinces and municipalities have.

That's an idea of one way we can integrate our institutions without losing control and without assimilating our people to the degree that it has been done now.

We are concerned, Mr. Chairman, that in dealing with the question of sovereignty for self-government, there have been a lot of fears expressed because we haven't had the opportunity to openly debate and discuss them with the leaders of the country and the people of the country. We welcome your statement about recognizing the inter-governmental relationships and expanding on those because our bands across Canada or tribes across Canada have exhausted the arrangements that exist now under local government authorities put in place by Parliament, the Parliament of Canada. That is why there is a continuous conflict in the administration, our developments are beyond the local government authorities that exist for them.

It is almost the same as trying to have the provinces governed by municipal law when they require greater status for their efforts and for their work.

We are also saying that under the history that we come from there is an inherent right to self-government and to governing powers that flow from our people and our lands. There is also the inherent right, Mr. Chairman, to exercise the collective right that we have been speaking of so many times during this conference. We reserve the division of power to our people as a band which is different from the delegated powers of the chief and council, so we are talking about different forms of government and different approaches and we have to be prepared to discuss those openly.

Finally, in closing, Mr. Chairman, I just want to say that I have not covered all of these different types of arrangements that could exist. There are those bands that have their own form of self-government independent of any other. There are bands that have their collective institutions to govern their activities.

I just want to remind this forum that we as Indians are in several processes right now. This process on the constitution is only one. There is the parliamentary process that was put in place by the government of Canada to deal with the question of the status of self-government, to deal with Canada-Indian fiscal relations, to deal with other matters that impact on our lives daily. We have been trying to reach a conclusion and an understanding of how we link up all of these processes. We are into five different processes at once and we would like to be able to discuss clearly what it is we want to see as our constitutional right entrenched as it relates to self-government. We have legislative rights that require enabling legislation from Parliament. There are also those regulatory rights

that we must address.

So, Mr. Chairman, while there are many areas to discuss on self-government, we would propose that in the bilateral process not to delay the implementation of the self-government we require south of the 60th parallel, we would want to move that agenda item as well to the bilateral process with the federal government and ourselves and in turn we could also discuss with the provinces where it is desired.

We want to make it quite clear that we have had our own self-government in our own way in our own forums for many, many generations and we will continue with that practice. At the moment the bands have that opportunity to elect their choice under the Indian Act. They can go by custom of the band or the elective system. In some cases they chose both.

So, Mr. Chairman, I hope that I was able to shed some light on some of the questions raised on self-government, but we can further discuss those and define those by approaching the principles of political autonomy as they apply to bands and as they apply to us as Indians on self-government.

Thank you.

THE CHAIRMAN: Finally, Mr. Erasmus and then the three Premiers.

MR. GEORGES ERASMUS: I am very sorry I didn't answer Mr. Lougheed's question when I did, because now I have so little time. This is a real favourite topic of mine.

I think what we are talking about is the manner in which some of our rights would be implemented.

Obviously we could not, all of us, sit around in a room like this until we were all satisfied with all of the different possible ways that self-government could manifest itself in this country. We are going to need a clear implementation process that allows for different possibilities in different parts of Canada and in some cases we may be talking about, you know, just the jurisdiction.

For instance, you may give a body of people the right to control their own education. They may not have a specific land mass to do it over. It may be that it is that collective body of people that has that right.

We may be talking about, in certain cases, clearly the possibility that in southern Canada there is clear land mass and they have clear jurisdiction. In the north, there are some unique possibilities, but I think the opportunities in the south are tremendous also. The point we are trying to say -- we are trying to make is this, we are not extremists. We are talking within the context of Confederation. We do want clear links between governments. We do want clear lines of responsibility. We do want the jurisdiction overlaps to be very, very clear. It will not mean that, you know, all difficulties will come to an end. It seems to me that we have a constitution now that tries to work out what powers the provinces will have and what powers the federal government will have and we have disputes, so it does not mean that we will eradicate all possibility of difficulty. I mean, that is the manner of living together, but the point we are trying to make here, and it hasn't been made by anybody

else, that while we are approaching this in a sane and rational manner, we feel as native people that really nothing else will work, that is honestly the bottom line. The reality has been that we have not been recognized in one shape, size or form before, we have not been recognized and that there is no need to go into a history, but the reality is, the reason we are here is we are concerned. We are concerned about the status of our people. We are concerned about the status of our culture, our ability to survive and we honestly are telling you that we want to be involved in a process where we will work out possible forms of government that will enable clear ability for some degree of self-determination within this country for native people and it might take a number of different kinds of shapes and forms. The possibilities are different in different parts of Canada.

The only thing I want to add to what was presented by delegates from northern Canada, we have a unique possibility we believe in northern Canada to shape future provinces which no other aboriginal people have been given. We intend on looking at the possibilities of having unique ways of decision-making in northern Canada that reflect the traditional manner in which people made democratic decisions, but in our case we are prepared to look at clear, democratic, full, open government, both native and non-native, but those kinds of circumstances don't exist. That opportunity doesn't exist in other parts of this country and we support the general notion that we need different opportunities.

The only point we are trying to make now is we want to be met fairly with an open mind and we feel over a period of time we will be able to work out something that we both will be able to live with.

Thank you.

THE CHAIRMAN: Mr. Pawley.

HON. HOWARD PAWLEY: Mr. Prime Minister, I know we are short of time so I am going to ask Maggie Balfour, who is the chief of the Norway House band to say a few words on the topic of self-government.

MS. MAGGIE BALFOUR (Chief, Chiefs Constitutional Committee, Manitoba): Honourable Prime Minister, Premiers, leaders of the aboriginal peoples, my most great concern at this conference as chief who represents approximately 3,000 people in northern Manitoba is in the area of self-government. There appears to be different interpretations of Indian government. When we speak in terms of self-government, I would prefer the words of local autonomy or Indian band governments which would take in the autonomy at the band level.

Many may understand that Indian self-government means the forming of another government in Canada, another bureaucracy for Indian people. This is where the danger lies. I don't think we want to be irrational and to sound as if we want to form another government. There are two types of governments in Canada, the federal government and the provincial governments. I hope it will be understood that self-government does not mean advocating alienating ourselves from the rest of society as this would be dangerous, especially in Northern Manitoba where we are totally dependent on the federal and provincial governments. On the other hand, local autonomy, local control or self-government if you wish, would mean that we would have the rights and freedoms acquired by the treaties and/or other rights we would acquire through the constitution.

For example land claims is only a part of those rights. We have yet to negotiate on other items that we feel are very important to us as Indian people. For example, we must deal with the importance of education and the improved standard of education for our Indian people. I would also like to support the paper presented by Manitoba, the transfer of suitable fiscal resources for carrying out the functions of self-government, as the Manitoba statement of principles.

At this time, I would like to say that I will present to the Hon. John Munro, Minister of Indian Affairs and Northern Development, our position paper on education for the Manitoba Indian people. This document has been approved by the FNC and MKO chiefs of Manitoba and I will present this to him personally at a later date, or later on this evening. Thank you.

THE CHAIRMAN: Thank you, Chief.

LE PRESIDENT: Premier ministre, M.

Lévesque.

M. LEVESQUE: Je vais essayer d'être aussi bref, ou presque, que notre collègue, M. Pawley, parce que le temps passe. Il y aurait beaucoup de choses à dire sur ce sujet, parce que c'est le sujet central auquel, bien sûr, on sera obligé de revenir tout le long du chemin et je résiste même à la tentation que m'a donnée tout à l'heure M. Amagoalik; il me rappelait de très bons souvenirs quand il a employé l'expression "Maîtres chez nous".

Alors, je vais passer immédiatement la parole, si vous le permettez, à une personne particulièrement qualifiée à notre avis, qui est membre de la délégation du Québec, tout en étant pleinement solidaire avec l'ensemble de ses concitoyens inuits. Il s'agit de M^{me} Mary Simon. Elle est particulièrement qualifiée, parce qu'elle est à la fois membre du Conseil exécutif de la Conférence circumpolaire des Inuits, un des deux seuls membres provenant du Canada, et qu'elle est également présidente de la Société Makivik qui est gardienne comme société des droits des Inuits du Québec et administratrice des fonds de compensation qui sont versés par les gouvernements.

MRS. MARY SIMON: Thank you, Mr. Premier, and than you, Mr. Prime Minister. I won't take up too much time but I would like to make a few statements. I think there is one fundamental difference between this discussion that is going on today and the discussions that have been going on for the last few months. When we originally started talking about constitutional rights with the Deputy Ministers and the Ministers, we talked about self-government in terms of rights. During those discussions, we were led, or we understood that there was some difficulty in accepting self-government as a constitutional right at this time. So, we agreed that we would discuss the concept of our self-government in terms of a principle.

Now, I have heard throughout the afternoon, or since we started talking about self-government and from my colleagues that there are different types of self-government, there are many different concepts and these different concepts have to be worked out according to each aboriginal group. Now, these can be done in different ways. I for one am responsible for the Inuit of Northern Québec and we have our own regional government. That is a concept of self-government. Now, other people think in terms of self-government based on their regional needs and their rights in that region, and I would like to point out that the Prime Minister recognized the crucial importance of this issue to aboriginal peoples when he identified self-government as an issue for constitutional discussion in 1980 at the All Chiefs Conference held here in Ottawa.

I am very alarmed at this conference, that there have been statements already made, even before we have finished discussing the concept of self-government, that it is

going to go into an on-going process. I thought anyway that this conference, we would be discussing certain rights or principles that would be entrenched in the constitution today, and I understand that there is some difficulty in giving a right to self-government at this time, but I certainly didn't think that we would leave this room without having agreed to the principle of self-government in the constitution. So, I don't want to be the cause of the failure of this conference but I would like to point this out to the First Ministers.

You know, the aboriginal peoples came to this conference in a spirit of co-operation. Section 37(2) clearly states that the purpose of this First Ministers' Conference was to deal with rights. Are rights to be included in the constitution? Then we were told that this was not possible with the different officials and also through the Ministers' conferences and so we started dealing with principles. I would just like to say that at the end of the discussion for self-government I think we should go back to the basic of recognizing the principle of self-government in the constitution now because next time we meet we will begin from square one again and we will start talking about whether self-government should actually be discussed in the constitutional talks.

THE CHAIRMAN: Thank you, Mrs. Simon.

Premier Hatfield?

HON. RICHARD HATFIELD: Mr. Chairman, I must say that I have been impressed by what I have heard this afternoon on this subject. I believe very strongly that what I hear and have been hearing for some time about the attitudes of people in our country, about their government, the Parliament

of Canada, the Legislatures of the provinces or the Assembly. People more and more are questioning whether or not they are serving the interests of the people. It seems to me, and it has been a view of mine for some time, that we are going to have to come to terms with this and give a lot of consideration to reforming the government, the kind of government we have in Canada, further reforming it. I think, therefore, if we could approach this request which is clearly in my mind legitimate for self-government as it has been or within the dimension which has been stated, that it will be a great experience for all of us and that we will learn from this how we can better serve the people that we are elected to represent. Therefore, I think that we should get on with exploring the ways of providing self-government for the aboriginal peoples.

There is no question about it, the school system is failing the Indian people in the province of New Brunswick. I don't know whose fault that is, but I know it is failing. I also know that the school system in the province of New Brunswick was failing one of the linguistic communities and I think I could argue two linguistic communities of the province of New Brunswick. Today, because we have made changes, those two linguistic communities are developing and are stronger than they ever were before and that example is being extended more and more into the relationship between government and the two linguistic communities in New Brunswick. It does work, I know it works, I know it will work for the Indian people and I know it worked for what are called the Metis or non-status and I know it will work for the Inuit people. We cannot -- when the values as it was said are so different, it is not possible for us to continue

with the old forms such as the Indian Act and such as the reservation concept and so on and so forth. It will take time and if it is going to be good it will take a lot of time. If we want to do it shabbily, if we want to do a shabby job we can do it in a hurry but I think that we must do it and I will support it and work towards that end with the other aboriginal groups.

THE CHAIRMAN: Good. I think then according to our agreement we should seek to adjourn now for 15 minutes and we then will have 45 minutes to come back here and put our signatures on this piece of paper in both languages. Or three languages or four or five.

La conférence est ajournée jusqu'à 5 heures moins 10.

--- Recess

--- Upon resuming

THE CHAIRMAN: Well you have the document called 1983 Constitutional Accord on Aboriginal Rights, accord de 1983 sur les droits des peuples autochtones. You have got twenty minutes to comment on it and to sign it! So let's hear the comments first.

Mr. Chartier.

MR. CLEM CHARTIER: Yes, Mr. Prime Minister. The Metis National Council is prepared to be a signatory to the accord.

THE CHAIRMAN: Well, I think we should give you a medal, you are the first.

--- (Applause)

MR. CLEM CHARTIER: Here again, Mr. Prime Minister, we relied maybe too heavily on your officials, we assumed that the document that they gave us was the correct one.

THE CHAIRMAN: Take away the medal.

Mr. Davis.

HON. WILLIAM DAVIS: Mr. Prime Minister, Ontario was prepared to sign the document as of this morning. We recognize the work that went on over the noon-hour and the compromises that had been achieved and so we are quite prepared to sign the document that presently exists, but I do emphasize we were prepared earlier today to accept the work of last evening.

I would like to add, Mr. Prime Minister, that in this process, speaking only from a personal standpoint that I learned a great deal in the discussions this afternoon about the concept of self-government and I would hope the people of our province now have a greater awareness and understanding and sensitivity and while there will be some who will say the progress was not that great, having been, Mr. Prime Minister, at constitutional conferences now for over ten years, I can only say from my perspective at least we have made a genuine beginning, a beginning that I think really bodes well for future deliberations and as Premier of our own province, I am content to sign this accord, sign it with enthusiasm but with the very clear understanding that this is a beginning and should not be construed by anyone as being the ultimate conclusion by any stretch of the imagination.

But I would like to, Mr. Prime Minister, thank you for the chairmanship of this gathering and I would like to thank my own ministers and the native people and our own delegation who have very rapidly perused the document that we are now prepared to sign for their support and the educational process that all of us have been through.

Ontario, Mr. Prime Minister, is ready to sign and we don't want a medal.

THE CHAIRMAN: Thank you.

--- (Applause)

HON. WILLIAM DAVIS: I mean I don't think we are going to get one anyway.

THE CHAIRMAN: Mr. Diamond of the Assembly of First Nations.

MR. BILLY DIAMOND (Chief, Quebec Region, Assembly of First Nations): Thank you, Mr. Chairman. From the Assembly of First Nations, we have gone through a very difficult bargaining and drafting session. I was in those sessions last night and again this afternoon. We were quite happy with the accord that was drafted last night but we were prepared to make certain changes to accommodate all of the parties to this accord.

I would just like to point out that this accord no longer contains principles but rather as an agenda to continue working.

Mr. Davis talked about awareness and sensitivity and the beginning process. I am very much afraid that the beginning process is being stalled in respect of further talks because of one very important addition and I think for the record we would like just to point out, particularly in the case of British Columbia, it was British Columbia that really wanted this particular clause out, but for the record, we still would like to get this clause in. The clause was the original No. 6 in the first draft, and it would have read according to the changes that we have made, the following: "In addition to the conferences convened under subsection (1), the government of Canada and the provincial governments, to the extent that each has jurisdiction, are committed to

negotiate and conclude treaties with the aboriginal peoples of Canada for the specific implementation in the various regions of Canada of the aboriginal rights of the aboriginal peoples of Canada."

We thought that was a very important clause in light of the present negotiations of land claims in the Northwest Territories and the Yukon and elsewhere in this country.

Now, we have gone through this draft and we have had our own caucus session and we have given a firm and positive recommendation to the national chief who will now give his voice on it.

THE CHAIRMAN: Chief Ahenakew.

MR. DAVID AHENAKEW: Thank you, Mr. Prime Minister. As you said yesterday, we have made progress, but very slowly. The AFN will sign the accord, because this is the first time in the history of our relations that there is a constitutional process to which the First Nations have agreed.

It is the culmination of a long struggle on the part of the elders and our leaders. We thank the Great Spirit that some of our elders have lived to see this day and I am talking about John Joseph, a Cree, Wallace Labillawa, a MicMac, Joe Crowshoe, Alberta, John L. George, British Columbia and on and on it goes.

They are with us today to guide us in our work towards the renewal of our relations, of our cultures and our relations with Canada, the renewal of our nations, cultures and relations with Canada.

There is enough goodwill and there has been enough goodwill and trust in this meeting to enable us to go forward in developing our relations. We sought and obtained an assurance from the government of Canada that our direct relationship with Canada confirmed the trust responsibility in Section 91(24) has in no degree been compromised, that is confirmed in Section 6 of the final accord.

We sought and obtained an assurance from Canada and from the provinces that the ongoing process we have agreed to does not undercut in any way our rights presently guaranteed in the constitution.

These assurances were necessary for any agreement to go forward, but the signing of the accord, we have to remind you, that the federal government and the provinces must now go to their legislatures to entrench in the constitution additional constitutional meetings and I want to remind everyone I too am elected.

We are putting our trust in your hands. I hope you can say like that advertisement on TV, "You are in good hands with Allstate."

In the spirit of cooperation and trust we expect this will be done.

We did not get everything we had hoped for. In Section 6 Billy Diamond speaks of the first draft of the accord; there was a commitment on the part of the government of Canada and the provinces to negotiate and conclude treaties to implement in the various regions of Canada on the rights recognized and affirmed in Section 35.

That section is gone, gone for the moment, to our deep regret, and I say gone for the moment, because we shall return.

We had thought that there was a consensus on the inclusion of aboriginal title and we had hoped to have the confusing word "existing" removed from Section 35. We had hoped that there would be a formal recognition of our First Nations government. There was no progress on these points.

We have a basic concern for the future of our constitutional relations, a consent clause on our future amendments would have given us a basic assurance of our rights as First Nations.

We will continue to press for the resolution of these issues. We will do this as we have done in the past in a constructive way, in good faith with a willingness to share for our First Nations and for the better future for all Canadians. Thank you.

THE CHAIRMAN: Thank you. Mr. Bruyere of the Native Council of Canada.

MR. LOUIS BRUYERE: Thank you, Mr. Prime Minister. We are certainly not completely satisfied with what has come out of this conference over the past two days because it does not entrench any rights for our Metis and non-status Indian people in terms of what we came here for and what this conference was called for but we will sign the accord on the basis that at some future date we are going to get an opportunity to put our rights in the constitution as they should be. It is pretty hard when you are dealing with the stubbornness of some of the provinces in terms of the provincial power bases as they seem to think it really is in that sense and all our people want is a rightful place but on a more positive note this conference has served to focus critical public attention and scrutiny on the serious problems and injustices that our people have suffered and we came here to correct it. Just with that I would like to say that we will sign the accord.

THE CHAIRMAN: Thank you. Mr. Amagoalik?

MR. JOHN AMAGOALIK: Thank you, Mr. Prime Minister. We are naturally disappointed that we were not able to achieve more at this conference in the last two days but we are walking away with something, if everyone is going to agree to this accord. It is a beginning. We recognize the fact that provinces are very reluctant to agree to anything that they

don't understand, but this is nothing new to us. We have had a long history of educating European Canadians as to what the Inuit are and we are prepared to keep doing that and we are prepared to sign this accord.

THE CHAIRMAN: I believe Mr. Wilson and then Mr. Watt. Mr. Wilson?

MR. BOB WILSON: Thank you very much, Mr. Prime Minister. The statement by our national President on behalf of the Metis and non-status Indian people across the country that we represent is one of guarded optimism, you might say, but I would have to inform you that on my part and on the part of many people who are watching us, there is a great deal of disappointment about the amount of money we have spent to produce an agreement to meet again to spend more money and I would really hope that now that we have had the process, and I agree that it has been one that is like pulling teeth, that we can now get on in the provinces and the territories and at the federal level with those kind of agreements. I know for a fact that if this conference has served nothing other than to inform the Canadian public, who are your and our constituents, that we have made a great deal of benefit to inform them of the issues we have discussed amongst ourselves and with you for 100 years, amongst ourselves for thousands of years. I would only echo the statements of Mr. Amagoalik who says that he has two children across the street watching this conference. I have two children on Vancouver Island, both of whom for some misguided reason say they want to be lawyers, both of whom want to be the Prime Minister, both of whom, Mr. Prime Minister, are women.

--- (Applause)

THE CHAIRMAN: Tell them I'll stick around until they are ready!

--- (Laughter)

MR. BOB WILSON: Mr. Chairman, I am informed by the government of British Columbia that one of them could be out here on a plane this evening.

--- (Laughter)

I also want to inform you that I have a son, fortunately he does not want to be a lawyer yet, and he has no political aspirations because he is only five-and-a-half, but I am sure that within a very short period of time if this constitutional discussion goes on he will make those kind of commitments as all of the Inuit people's children have made those commitments by way of their birth, and all of the Indian people have made those commitments by way of their birth, and all of the Metis children have made that commitment, not only by way of their birth but by way of the fact that their people fought in two wars against this government, and there is no way to defeat that kind of commitment to ensuring that this country is going to be one that will allow us to exist with self-respect and dignity, proceeding on the basis of trust for thousands and thousands of years. With that I would hope that the next time we come we can accomplish more than simply educate you. Thank you very much, Mr. Chairman.

THE CHAIRMAN: I hope the Premiers are still prepared to sign. If you are not more happy than this, I don't see why we are so worried about getting your agreement. Premier Pawley?

HON. HOWARD PAWLEY: Mr. Prime Minister, Manitoba is prepared to sign. We would have also signed the

accord this morning. We recognize the fact that two days of discussion in themselves have been progress around this table in which we have attempted to better inform each other. We recognize on our part that this accord that we are about to sign is very limited by way of progress. Yet, it is progress nevertheless. Manitoba is committed to working towards much greater progress in the future and I would simply like to take this opportunity, Mr. Prime Minister, in thanking the delegates in the Manitoba group who worked very, very hard over the past year and have participated in a great deal of dialogue within the province for their efforts, for their work and I am sure that when we meet again, Mr. Prime Minister, we will have made even greater progress.

THE CHAIRMAN: Fine. Mr. Watt?

MR. CHARLIE WATT: Mr. Prime Minister, I am going to be speaking my own mother tongue and I would suggest all the Premiers to turn your earphones to No. 4, Inuktitut. This is for the purpose of the people who are listening and watching, and we also have a lot of our people here, and they are expecting some concrete result out of this meeting, and I would like to inform them in my own language.

(Translation) We have met for the first time the boss of the government of Canada and the leaders of the various provinces. I want to thank on behalf of the Inuit the fact that they have been able to hear and listen and to see the issues here before us, before all of us who are sitting here. We are aware that the accord that we are about to sign, we will sign and put our name down on the accord without reluctance because in our way of life we have never had any wavering doubts or self doubts and in thinking of our future and the future of our

children we do not come here with a view to ending something, instead we want to have accommodation that is never-ending and on-going and we want to have the Inuit accommodated and be on equal terms with the governments of the white people and the governments of the provinces. The two levels of government are established under the constitution and I want you to keep in mind of what I said earlier that the future, our collective future is not going to be possible in your future or ours to have stability and tranquility in the future without this. Thank you very much.

THE CHAIRMAN: Thank you, Mr. Watt.

Premier Lougheed?

HON. PETER LOUGHEED: Just a very brief comment, Mr. Chairman. I just wanted to join with the others or perhaps you could do it, Mr. Chairman, in thanking the various provincial delegations that have been involved.

THE CHAIRMAN: You said the province is a signatory; is that right?

HON. PETER LOUGHEED: Yes. What I said was rather than ten of us thanking our respective delegations in view of the time I thought that you might do it on our joint behalf and I want to say that I am pleased at the arrangements which have permitted the Metis National Council to come to the table and make their very significant presentations as well for those of us in the provinces in the west who were involved.

THE CHAIRMAN: Mr. Braden, please.

HON. GEORGE BRADEN: The government of the Northwest Territories will sign the accord and for the record I will indicate that we have some concerns about continuing to

rely upon your opinion, but I have watched you perform the last couple of days and I am very impressed and so I am confident that in the future you will exercise good judgment and be sure to include the representatives of the Northwest Territories to the greatest extent possible. Thank you, Mr. Prime Minister.

THE CHAIRMAN: That is very flattering.
Thank you, Mr. Braden.

--- (Laughter)

I have Mr. Lévesque.

M. LEVESQUE: Monsieur le président, je dois dire que nous sommes très contents, nous, du Québec, qu'il y ait eu parmi les autres participants un accord, même si je dois dire jusqu'à nouvel ordre que ça ressemble à la montagne qui a accouché d'une souris!

On parlait ce matin, j'aurais noté la phrase "elaborationsof principles in the Accord", qu'il devait y avoir une certaine élaboration de certains principes dans cet accord. Je dois dire que comme tout le monde j'ai à peine eu le temps de le lire, le temps que cela a pris pour obtenir le texte, on l'a pas encore en français, mais heureusement je suis bilingue, et j'ai eu beau chercher, je n'ai pas trouvé de principe.

LE PRESIDENT: Vous êtes bilingue

M. LEVESQUE: Ca vient d'arriver.

LE PRESIDENT: Non, non, c'était là depuis un bon dix minutes.

M. LEVESQUE: Ca vient d'arriver, on n'en fera pas unechicane cosmique! De toute façon, je l'ai lu en anglais et je trouve exactement comme l'a dit sur un sujet très central M^{me} Simon de la Société Makiavik tout à l'heure, je trouve qu'il est regrettable qu'on n'ait pas pu se rendre jusqu'à la considération sérieuse de certains principes et surtout qu'on n'ait pas pu se rendre jusqu'à l'acceptation de certains principes fondamentaux. Je crois sans exagérer que nous sommes sur le plan québécois quelque peu plus avancés que ça; encore une fois c'est pas parfait, mais nous avons pris un peu d'avance, c'est le moins que

je puisse dire.

J'ai remarqué aussi, je dois le dire comme je le pense, qu'il y a eu un très grand fouillis ce matin autour et alentour du texte proposé de l'accord, qui vient émané de ce qu'on appelle en langage courant un "shif" de nuit. Nous connaissons, nous, du Québec, nous connaissons, nous, du Québec, le danger de ces "shifts" nocturnes et je conseillerais très amicalement aux représentants autochtones, qui n'ont pas encore une longue habitude, d'organiser désormais des patrouilles nocturnes quand ils viendront à Ottawa.

Maintenant, ce que nous avons à dire très rapidement pour le Québec et pour la suite, c'est que nous allons voir sans délai, avec les représentants autochtones du Québec, que nous avons été très heureux et très fiers de compter dans les rangs de la délégation québécoise, nous allons voir avec eux et avec elles, comment nous envisagerons la suite ensemble. Je puis déjà déclarer solennellement, au nom du gouvernement du Québec, que pour toute conférence ultérieure, ainsi que les rencontres préparatoires qui seront requises, Québec ne sera pas moins présent que cette fois-ci et j'espère, avant de terminer, que notre présence aura eu quelque utilité pour ceux cause de qui nous étions là, c'est-à-dire les peuples autochtones.

En tout cas, je dois souligner une chose qui m'a frappé, c'est la qualité de solidarité, de mobilisation interne, de dignité et de fierté qu'ils ont affichée ici et qui pourrait servir de leçon à beaucoup d'entre nous.

Maintenant, je le dis sans amertume, nous ne signerons pas cet accord, parce qu'il y a là deux choses: une espèce d'implication indirecte, mais que nous sentons très bien, à l'égard du processus constitutionnel, basé sur le "Canada Bill" que nous ne reconnaitrons jamais tel qu'il est.

Et deuxièmement, parce que squelettique, squelettique comme l'est cet accord, il pourrait servir, si on faisait pas attention, à ralentir un processus que nous, en tout cas au Québec, nous voulons accélérer autant que possible.

Je le dis sans amertume, mais je crois que notre parole donnée a autant de valeur que n'importe quel accord sur le papier. Je le dis sans amertume, mais à propos d'accord, cette salle me rappelle de curieux souvenirs.

Nous aurons, bien sûr, à nous entendre avec les représentants des peuples inuit et amérindiens qui sont au Québec sur la façon de consigner avec eux la garantie que je viens de donner, de même que l'intention que nous avons justement d'avancer ensemble, une intention qui a pas mal de chances d'être plus rapide que ce processus constitutionnel. Et quand je dis ensemble, je veux dire aussi que, lorsque nous aurons quelque engagement sur lequel on pourra s'entendre, on se sera entendus entre nous, on le prendra et, quant à nous, ça devrait être toujours comme ça, on le prendra conjointement, sur le même pied, comme participants à part entière, les uns et les autres.

Maintenant, je n'irai pas plus loin, parce que la semaine prochaine, comme d'autres gouvernements

je crois, nous avons une nouvelle session qui va s'ouvrir et, dans le discours inaugural que j'aurai à prononcer au nom du gouvernement, je ferai rapport plus circonstancié de cette conférence et j'aurai sans doute l'occasion alors d'évoquer des actions ultérieures que nous entendons mener. Merci, monsieur le président.

THE CHAIRMAN: Mr. Pearson of the Yukon.

HON. C.W. PEARSON: Thank you very much, Mr. Prime Minister. Mr. Prime Minister, this has not only been an historical occasion for the aboriginal peoples but it has also been quite historic for the people of the Yukon. It is, in fact, the first time that an elected representative has been here representing them and I too want to add my thanks to Mr. Braden's to you personally for inviting us. We do appreciate it, we hope that you are going to continue to invite us, we hope that our participation is of value to you. Thank you very, very much.

THE CHAIRMAN: Premier Hatfield?

HON. RICHARD HATFIELD: Mr. Chairman, representing the government of New Brunswick we have signed the accord and I would like to say that I am very pleased that because of the initiative of the women, Indian women who are part of the New Brunswick delegation, they have secured for themselves and for all Indian women a special step forward in the constitution and I congratulate them for the work that they did to bring this about.

I think that they have demonstrated that they are equal.

I think that -- I want to thank all of those who have helped to bring this further step in the development of our nation and I hope the day never does arrive when we meet here or our successors meet here and say we have done it all, we have accomplished everything because that will be the day that Canada is dying.

Thank you.

THE CHAIRMAN: Premier Lee.

HON. JAMES H. LEE: Mr. Chairman, as well Prince Edward Island has signed the accord and we are very pleased to have been a signatory to that. We feel that the conference has had some success and even the signing of the accord itself is a major success, maybe not as much as some of the representatives around the table would have liked to have had today, but I think we have a clear understanding, I know I do, of some of the items that have been discussed for the past two days, discussed in particular by the representatives of the aboriginal people that have sat at the table here with us, a clear understanding as to the meaning of some of the topics that have been discussed.

I would like to assure the aboriginal people in my province that these talks will continue in Prince Edward Island with our own people. We are prepared as a government to continue these talks, continue these discussions along the lines that we have participated in the past two days here at the constitutional conference and we look forward to the ongoing process that we have established here today and I know that greater success

will come of these meetings in the future.

THE CHAIRMAN: Mr. Ottenheimer.

HON. G.R. OTTENHEIMER: Mr. Prime Minister, Premier Peckford has had to leave for Newfoundland. We have --

THE CHAIRMAN: Mr. Ottenheimer, I'm sorry, Premier Hatfield has some after-thoughts.

HON. RICHARD HATFIELD: I just want to add my appreciation to the representatives of the Metis non-status here from the province of New Brunswick and the contribution that they have made, both at the Native Council and as part of the New Brunswick delegation and to continue because of the constitutional responsibility to pledge to work with them to improve their position in our Canadian society.

Thank you.

THE CHAIRMAN: Mr. Ottenheimer.

HON. G.R. OTTENHEIMER: Mr. Prime Minister, as I mentioned, Premier Peckford has had to leave for Newfoundland; we have a budget tomorrow, but on his behalf and on behalf of the government of Newfoundland, I am pleased to indicate Newfoundland's signature to the accord and to say also that Newfoundland, as has been stated, is looking forward to negotiations of outstanding issues to take place in the future.

If I may as a member of the committee of the ministers which has met on two previous occasions and again last night and earlier today, to thank Mr. MacGuigan for his capable chairmanship of those meetings and I am sure that wasn't always an easy task.

THE CHAIRMAN: Mr. Morris of Nova Scotia.

HON. EDMUND MORRIS: Mr. Prime Minister, as a minister, Nova Scotia would defer if the Honourable Premier of Saskatchewan wishes to speak.

THE CHAIRMAN: Mr. Devine.

HON. GRANT DEVINE: Thank you, Mr. Prime Minister.

I believe what has happened in the last couple of days has been an education for the people around this table, but also a bit of an education for all Canadians and I believe all Canadians are going to have to support the politicians in helping us get on with the job and meet some of the responsibilities that have been defined here.

I might point out, Mr. Prime Minister, that fourteen years ago in London you said to a group of Canadian students, and I quote: "I think that all of us feel a sense of guilt, not so much toward the Indian as towards the fact that we haven't addressed our minds to this problem."

Well Mr. Prime Minister, we have now begun to address our minds to this problem and for all aboriginal people. We have agreed to an accord and we are proud of it. We have committed ourselves to a continuation of this process, a process which I believe will lead to a solution satisfactory to everyone around this table and to everyone who is proud to be called a Canadian.

In Saskatchewan we are prepared to go to work. Thank you.

THE CHAIRMAN: Thank you, Premier.

The Premier of British Columbia.

HON. WILLIAM BENNETT: Yes, Prime Minister, British Columbia is very proud to sign the accord and the subsequent constitutional agreement and will introduce the motion into our legislature. I am very pleased to hear from Bill Wilson that dealing directly with the top is going to be much easier for British Columbians in the future his daughter -- seeing so many are running for leadership of parties, it is going to eliminate that cumbersome procedure and go directly for the top job and I wasn't presuming to speak for the Premier of Ontario --

HON. WILLIAM DAVIS: Since when did you become so reticent. You have spoken before for me.

HON. WILLIAM BENNETT: Anyhow, Prime Minister, and to those representatives of the native groups and to the Canadians watching, although many might feel frustrated that while we have agreed on a procedure, some items of substance that were important to many people did not get the discussion or the debate or the conclusion they might have asked, but let me remind you of the importance of these meetings, as I have found them, because there is always a presumption by Premiers and Prime Ministers and leaders that the Canadian people know as much about their case, as much about their cause or as much about their proposals as they do, and I think these conferences, as frustrating as they may seem to be, it is very important that all Canadians understand what is being proposed, what is being discussed and what is being agreed to, because ultimately as I said in the beginning, for those of us who are elected by governments, we are the agents of the Canadian people and, therefore, I feel there is a responsibility

on all of us to take the Canadian people into our collective confidence if we are going to have the type of agreements that will stand the test of Canadian public opinion and support.

Today we can be proud that we have come a long way and rather than being frustrated, we should be proud that we have set in motion a process that has eluded governments and Indian leaders and has brought together for the first time representatives from the territories.

So, Prime Minister, as chairman, I want to tell you that we are pleased to have participated in the meeting. We are pleased to have signed the accord and we look forward to future meetings and I would like to thank those that have carried on and made the facilities both easier and possible for us to conduct this meeting. I would like to thank them on behalf of the British Columbia delegation now.

THE CHAIRMAN: Thank you, Premier. Mr. Morris of Nova Scotia.

HON. EDMUND MORRIS: Prime Minister, Nova Scotia perceives that three very valuable and important considerations arose here during our two days. First, Prime Minister, the agenda that we have had before us was the agenda proposed by the aboriginal representatives.

Secondly, we overcame, as Nova Scotia proposed, a situation in which there could have been no ongoing process at all by means of adopting an accord.

And third, Prime Minister, Canada, the federal government and nine of the provinces have agreed by their signatures to present a resolution in the form set

out in the schedule to authorize a proclamation to amend the Constitution Act. We think these are significant and worthwhile developments.

Nova Scotia is glad to sign the accord.

THE CHAIRMAN: Thank you. Premier Davis is asking if I am going to sign. Yes, I am going to sign on behalf of the government of Canada.

I want to begin by thanking very much the continuing committee of ministers and representatives of the aboriginal people who in two previous meetings before yesterday and then last night and again this afternoon under the chairmanship of Mark MacGuigan have really permitted us to have a document that we could sign and indeed I also want to thank those officials who worked through the night so that we could have a document this morning to pick apart in part, but to build on which has resulted in this first constitutional accord to have taken place since the Canadians have had their own constitution.

Je crois qu'il est important de signaler que le premier amendement constitutionnel que nous ferons à la Constitution canadienne depuis qu'elle est devenue canadienne affectera et touchera aux problèmes des peuples qui étaient ici longtemps avant les Blancs et cet accord nous permettra d'insérer dans la Consitution, non seulement un processus qui nous verra tenir encore trois réunions d'ici cinq ans, trois réunions de cette nature, mais qui, également, donne un peu plus de précision à ces droits que nous voulons définir par la suite et préciser encore plus loin que nous n'avons pu le faire jusqu'à maintenant.

Therefore, I would just have a word of thanks to all of the delegations and perhaps an encouragement to those who think that we have not accomplished as much as they would have liked. We have only had our constitution for less than a year now and already the aboriginal peoples have been able to see that it be amended so that they could have their place in nation-building, the building of this Canadian nation over the years and the decades to come. As one who has been sitting around at these constitutional conferences for now 15 years and who only for the first time last year got an amendment to the Canadian constitution, I would say to the aboriginal people that they are doing pretty well and I hope that they will continue and pick up speed.

Thank you very much to everyone. La conférence est maintenant ajournée.

--- 5:55 p.m./ 17H55

FIRST MINISTERS' CONFERENCE
ON ABORIGINAL CONSTITUTIONAL MATTERS

CONFÉRENCE DES PREMIERS MINISTRES
SUR LES QUESTIONS CONSTITUTIONNELLES
INTÉRESSANT LES AUTOCHTONES

OTTAWA

MARCH 15-16, 1983 / LES 15 ET 16 MARS 1983

FINAL AGENDA

ORDRE DU JOUR DÉFINITIF

1. CHARTER OF RIGHTS OF THE ABORIGINAL PEOPLES (EXPANDED PART II) INCLUDING:

1. CHARTE DES DROITS DES PEUPLES AUTOCHTONES (EXPANSION DE LA PARTIE II DE LA LOI CONSTITUTIONNELLE DE 1982), Y COMPRIS:

- PREAMBLE

- LE PRÉAMBULE

- REMOVAL OF "EXISTING", AND EXPANSION OF SECTION 35 TO INCLUDE RECOGNITION OF MODERN TREATIES, TREATIES SIGNED OUTSIDE CANADA AND BEFORE CONFEDERATION, AND SPECIFIC MENTION OF "ABORIGINAL TITLE" INCLUDING THE RIGHTS OF ABORIGINAL PEOPLES OF CANADA TO A LAND AND WATER BASE (INCLUDING LAND BASE FOR THE METIS)

- LA SUPPRESSION DU TERME "EXISTANTS" ET L'INCLUSION A L'ARTICLE 35 DE LA RECONNAISSANCE DES TRAITÉS CONTEMPORAINS, DES TRAITÉS SIGNÉS EN DEHORS DU CANADA ET AVANT LA CONFÉDÉRATION, AINSI QUE LA MENTION PRÉCISE DE "TITRE AUTOCHTONE" Y COMPRIS LE DROIT DES PEUPLES AUTOCHTONES DU CANADA A UN TERRITOIRE ET DES EAUX DE RÉSERVE (Y COMPRIS UN TERRITOIRE POUR LES MÉTIS)

- STATEMENT OF THE PARTICULAR RIGHTS OF ABORIGINAL PEOPLES

- L'ÉNONCÉ DES DROITS PARTICULIERS DES PEUPLES AUTOCHTONES

- STATEMENT OF PRINCIPLES

- L'ÉNONCÉ DES PRINCIPES

- EQUALITY

- L'ÉGALITÉ

- ENFORCEMENT

- L'APPLICATION

- INTERPRETATION

- L'INTERPRÉTATION

2. AMENDING FORMULA REVISIONS, INCLUDING:

2. MODIFICATION DE LA FORMULE D'AMENDMENT, Y COMPRIS:

- AMENDMENTS ON ABORIGINAL MATTERS NOT TO BE SUBJECT TO PROVINCIAL OPTING OUT (SECTION 42)

- LA SOUSTRACTION AU DROIT DE RETRAIT DES PROVINCES DES MODIFICATIONS PORTANT SUR LES AFFAIRES DES AUTOCHTONES

- CONSENT CLAUSE

- LA DISPOSITION DE CONSENTEMENT

3. SELF-GOVERNMENT

3. GOUVERNEMENT AUTOCHTONE AUTONOME

4. REPEAL OF SECTION 42(1)(e) AND (f)

4. ABROGATION DES ALINÉAS 42(1)e) ET f)

5. AMENDMENTS TO PART III, INCLUDING:

5. MODIFICATION DE LA PARTIE III, Y COMPRIS:

- EQUALIZATION
- COST-SHARING
- SERVICE DELIVERY

RESOURCING OF
- ABORIGINAL
GOVERNMENTS

- LA PÉRÉQUATION
- LE PARTAGE
DES FRAIS
- LA PRESTATION
DE SERVICES

RESSOURCES DES
- ADMINISTRATIONS
AUTOCHTONES

6. ONGOING PROCESS, INCLUDING FURTHER FMC'S AND THE ENTRENCHMENT OF NECESSARY MECHANISMS TO IMPLEMENT RIGHTS

6. DISPOSITIONS DE SUIVI, Y COMPRIS D'AUTRES CONFÉRENCES DES PREMIERS MINISTRES ET L'INSCRIPTION DES MÉCANISMES NÉCESSAIRES A L'EXÉCUTION DES DROITS

DOCUMENT: 800-17/041

FINAL - FINAL

15 April/83 - 15 avril/83

FIRST MINISTERS' CONFERENCE
ON
ABORIGINAL CONSTITUTIONAL MATTERS

CONFÉRENCE DES PREMIERS MINISTRES
SUR LES QUESTIONS CONSTITUTIONNELLES
INTÉRESSANT LES AUTOCHTONES

1983 CONSTITUTIONAL ACCORD
ON ABORIGINAL RIGHTS

ACCORD CONSTITUTIONNEL DE 1983
SUR LES DROITS DES AUTOCHTONES

FEDERAL
FÉDÉRAL

1983 CONSTITUTIONAL ACCORD ON
ABORIGINAL RIGHTS

Whereas pursuant to section 37 of the Constitution Act, 1982, a constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces was held on March 15 and 16, 1983, to which representatives of the aboriginal peoples of Canada and elected representatives of the governments of the Yukon Territory and the Northwest Territories were invited;

And whereas it was agreed at that conference that certain amendments to the Constitution Act, 1982 would be sought in accordance with section 38 of that Act;

And whereas that conference had included in its agenda the following matters that directly affect the aboriginal peoples of Canada:

AGENDA

1. Charter of Rights of the Aboriginal Peoples (Expanded Part II) Including:
 - Preamble
 - Removal of "Existing", and Expansion of Section 35 to Include Recognition of Modern Treaties, Treaties signed Outside Canada and Before Confederation, and Specific Mention of "Aboriginal Title" Including the Rights of Aboriginal Peoples of Canada to a Land and Water Base (including Land base for the Metis)
 - Statement of the Particular Rights of Aboriginal Peoples
 - Statement of Principles
 - Equality
 - Enforcement
 - Interpretation

ACCORD CONSTITUTIONNEL DE 1983 SUR LES DROITS DES AUTOCHTONES

Attendu :

qu'une conférence constitutionnelle réunissant le premier ministre du Canada et les premiers ministres provinciaux, à laquelle avaient été invités les représentants des peuples autochtones du Canada et des représentants élus du territoire du Yukon et des territoires du Nord-Ouest, a eu lieu les 15 et 16 mars 1983 en application de l'article 37 de la Loi constitutionnelle de 1982;

qu'il a été convenu, à cette conférence, que la Loi constitutionnelle de 1982 ferait l'objet d'une procédure de modification dans les conditions prévues à son article 38;

que les questions suivantes qui intéressent directement les peuples autochtones du Canada avaient été placées à l'ordre du jour de cette conférence:

ORDRE DU JOUR

1. CHARTE DES DROITS DES PEUPLES AUTOCHTONES (EXPANSION DE LA PARTIE II DE LA LOI CONSTITUTIONNELLE DE 1982), Y COMPRIS:
 - LE PRÉAMBULE
 - LA SUPPRESSION DU TERME "EXISTANTS" ET L'INCLUSION A L'ARTICLE 35 DE LA RECONNAISSANCE DES TRAITÉS CONTEMPORAINS, DES TRAITÉS SIGNÉS EN DEHORS DU CANADA ET AVANT LA CONFÉDÉRATION, AINSI QUE LA MENTION PRÉCISE DE "TITRE AUTOCHTONE" Y COMPRIS LE DROIT DES PEUPLES AUTOCHTONES DU CANADA A UN TERRITOIRE ET DES EAUX DE RÉSERVE (Y COMPRIS UN TERRITOIRE POUR LES MÉTIS)
 - L'ÉNONCÉ DES DROITS PARTICULIERS DES PEUPLES AUTOCHTONES
 - L'ÉNONCÉ DES PRINCIPES
 - L'ÉGALITÉ
 - L'APPLICATION
 - L'INTERPRÉTATION

2. Amending Formula Revisions, Including:

- Amendments on Aboriginal Matters not to be Subject to Provincial Opting Out (Section 42)
- Consent Clause

3. Self-Government

4. Repeal of Section 42(1)(e) and (f)

5. Amendments to Part III, Including:

- | | | |
|---------------------|---|------------------------|
| -- Equalization |) | Resourcing of |
| -- Cost-Sharing |) | Aboriginal Governments |
| -- Service Delivery |) | |

6. Ongoing Process, Including Further First Ministers Conferences and the Entrenchment of Necessary Mechanisms to Implement Rights

And whereas that conference was unable to complete its full consideration of all the agenda items;

And whereas it was agreed at that conference that future conferences be held at which those agenda items and other constitutional matters that directly affect the aboriginal peoples of Canada will be discussed;

NOW THEREFORE the Government of Canada and the provincial governments hereby agree as follows:

2. MODIFICATION DE LA FORMULE D'AMENDEMENT, Y COMPRIS:
 - LA SOUSTRACTION AU DROIT DE RETRAIT DES PROVINCES DES MODIFICATIONS PORTANT SUR LES AFFAIRES DES AUTOCHTONES
 - LA DISPOSITION DE CONSENTEMENT
3. GOUVERNEMENT AUTOCHTONE AUTONOME
4. ABROGATION DES ALINÉAS 42(1)e) ET f)
5. MODIFICATION DE LA PARTIE III, Y COMPRIS:
 - LA PÉRÉQUATION) RESSOURCES DES ADMINISTRATIONS
 - LE PARTAGE DES FRAIS) AUTOCHTONES
 - LA PRESTATION DE SERVICES)
6. DISPOSITIONS DE SUIVI, Y COMPRIS D'AUTRES CONFÉRENCES DES PREMIERS MINISTRES ET L'INSCRIPTION DES MÉCANISMES NÉCESSAIRES A L'EXÉCUTION DES DROITS

qu'il n'a pas été possible à cette conférence
d'étudier pleinement toutes ces questions;

qu'il a été convenu, à la même conférence, d'examiner
ces questions et d'autres questions constitutionnelles
qui intéressent directement les peuples autochtones
du Canada à des conférences ultérieures,
le gouvernement du Canada et les gouvernements provinciaux
sont convenus de ce qui suit:

1. Dans l'année suivant la conférence qui a
eu lieu les 15 et 16 mars 1983, le
premier ministre du Canada convoquera
une conférence constitutionnelle réunissant
les premiers ministres provinciaux et
lui-même
2. Seront placées à l'ordre du jour de la
conférence convoquée en vertu du paragraphe (1) les
questions qui n'ont pas été étudiées pleinement
lors de la conférence des 15 et 16 mars 1983. Le
premier ministre du Canada invitera les représentants
des peuples autochtones du Canada à participer aux
travaux relatifs à ces questions

1. A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces will be convened by the Prime Minister of Canada within one year after the completion of the constitutional conference held on March 15 and 16, 1983.
2. The conference convened under subsection (1) shall have included in its agenda those items that were not fully considered at the conference held on March 15 and 16, 1983, and the Prime Minister of Canada shall invite representatives of the aboriginal peoples of Canada to participate in the discussions on those items.
3. The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of the conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.
4. The Prime Minister of Canada will lay or cause to be laid before the Senate and House of Commons, and the first ministers of the provinces will lay or cause to be laid before their legislative assemblies, prior to December 31, 1983, a resolution in the form set out in the Schedule to authorize a proclamation to be issued by the Governor General under the Great Seal of Canada to amend the Constitution Act, 1982.

3. Le premier ministre du Canada invitera des représentants élus des gouvernements du territoire du Yukon et des territoires du Nord-Ouest à participer aux travaux relatifs à toute question placée à l'ordre du jour de la conférence convoquée en vertu du paragraphe (1) et qui, selon lui, intéresse directement le territoire du Yukon et les territoires du Nord-Ouest,
4. Le premier ministre du Canada et les premiers ministres provinciaux déposeront ou feront déposer avant le 31 décembre 1983, devant le Sénat et la Chambre des communes et devant les assemblées législatives respectivement, une résolution, établie en la forme de celle qui figure à l'annexe, autorisant le gouverneur général à prendre sous le grand sceau du Canada une proclamation portant modification de la Loi constitutionnelle de 1982.
5. En vue de la préparation des conférences constitutionnelles prévues par le présent accord, des réunions, convoquées au moins une fois par an par le gouvernement du Canada, seront tenues regroupant des ministres fédéraux et provinciaux, ainsi que les représentants des peuples autochtones du Canada et des représentants élus des gouvernements du territoire du Yukon et des territoires du Nord-Ouest.

5. In preparation for the constitutional conferences contemplated by this Accord, meetings composed of ministers of the governments of Canada and the provinces, together with representatives of the aboriginal peoples of Canada and elected representatives of the governments of the Yukon Territory and the Northwest Territories, shall be convened at least annually by the government of Canada.
6. Nothing in this Accord is intended to preclude, or substitute for, any bilateral or other discussions or agreements between governments and the various aboriginal peoples and, in particular, having regard to the authority of Parliament under Class 24 of section 91 of the Constitution Act, 1867, and to the special relationship that has existed and continues to exist between the Parliament and government of Canada and the peoples referred to in that Class, this Accord is made without prejudice to any bilateral process that has been or may be established between the government of Canada and those peoples.
7. Nothing in this Accord shall be construed so as to affect the interpretation of the Constitution of Canada.

6. Le présent accord n'a pas pour effet de prévenir ou de remplacer les discussions, bilatérales ou autres, ou la conclusion d'ententes, entre gouvernements et les divers peuples autochtones. Plus particulièrement, eu égard à la compétence dévolue au Parlement en vertu de la catégorie 24 de l'article 91 de la Loi constitutionnelle de 1867 et aux relations particulières qui ont existé et continuent à exister entre le Parlement et le gouvernement du Canada et les peuples mentionnés dans cette catégorie, la conclusion du présent accord n'a pas pour effet de porter atteinte aux actions bilatérales menées, ou susceptibles de l'être, entre le gouvernement du Canada et ces peuples.
7. Le présent accord n'a pas pour effet de déroger à l'interprétation de la Loi constitutionnelle de 1982.

Signed at Ottawa this 16th day
of March, 1983 by the Government
of Canada and the provincial
governments:

Fait à Ottawa le 16 mars 1983,
par le gouvernement du Canada
et les gouvernements provinciaux:

Canada

Ontario

British Columbia
Colombie-Britannique

Québec

Prince Edward Island
Île-du-Prince-Édouard

Nova Scotia
Nouvelle-Écosse

Saskatchewan

New Brunswick
Nouveau-Brunswick

Alberta

Manitoba

Newfoundland
Terre-Neuve

AND WITH THE PARTICIPATION OF:

ET AVEC LA PARTICIPATION DE:

Assembly of First
Nations
Assemblée des
Premières Nations

Inuit Committee on
National Issues
Comité inuit sur les
Affaires nationales

Métis National Council
Ralliement national
des Métis

Native Council of
Canada
Conseil des
Autochtones du
Canada

Yukon Territory
Territoire du
Yukon

Northwest Territories
Territoires du
Nord-Ouest

SCHEDULE

ANNEXE

Proposed Resolution to authorize His Excellency the Governor General to issue a proclamation respecting amendments to the Constitution of Canada

Projet de résolution autorisant Son Excellence le gouverneur général à prendre une proclamation portant modification de la Constitution du Canada

THE PRIME MINISTER

LE PREMIER MINISTRE

Motion for a Resolution to authorize His Excellency the Governor General to issue a proclamation respecting amendments to the Constitution of Canada

Whereas the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so 5 authorized by resolutions of the Senate and House of Commons and resolutions of the legislative assemblies as provided for in section 38 thereof;

And Whereas the Constitution of 10 Canada, reflecting the country and Canadian society, continues to develop and strengthen the rights and freedoms that it guarantees;

And Whereas, after a gradual transition 15 of Canada from colonial status to the status of an independent and sovereign state, Canadians have, as of April 17, 1982, full authority to amend their Constitution in Canada; 20

And Whereas historically and equitably it is fitting that the early exercise of that full authority should relate to the rights and freedoms of the first inhabitants of Canada, the aboriginal peoples; 25

Now Therefore the House of Commons resolves that His Excellency the Governor General be authorized to issue a proclamation under the Great Seal of Canada amending the Constitution of Canada as follows: 30

PROCLAMATION AMENDING THE CONSTITUTION OF CANADA

1. Paragraph 25(b) of the *Constitution Act, 1982* is repealed and the following substituted therefor:

“(b) any rights or freedoms that now exist by way of land claims agreements 35 or may be so acquired.”

Motion de résolution autorisant Son Excellence le gouverneur général à prendre une proclamation portant modification de la Constitution du Canada

Considérant :
que la *Loi constitutionnelle de 1982* prévoit que la Constitution du Canada peut être modifiée par proclamation du gouverneur général sous le grand sceau du 5 Canada, autorisée par des résolutions du Sénat et de la Chambre des communes et par des résolutions des assemblées législatives dans les conditions prévues à l'article 38; 10

que la Constitution du Canada, à l'image du pays et de la société canadienne, est en perpétuel devenir dans l'affermissement des droits et libertés qu'elle garantit;

que les Canadiens, après la longue évolution de leur pays de simple colonie à État indépendant et souverain, ont, depuis le 17 avril 1982, tout pouvoir pour modifier leur Constitution au Canada; 15

que l'histoire et l'équité demandent que 20 l'une des premières manifestations de ce pouvoir porte sur les droits et libertés des peuples autochtones du Canada, premiers habitants du pays,

la Chambre des communes a résolu d'autoriser Son Excellence le gouverneur général à prendre, sous le grand sceau du Canada, une proclamation modifiant la Constitution du Canada comme il suit : 25

PROCLAMATION MODIFIANT LA CONSTITUTION DU CANADA

1. L'alinéa 25b) de la *Loi constitutionnelle de 1982* est abrogé et remplacé par ce qui suit : 30

«b) aux droits ou libertés existants issus d'accords sur des revendications territoriales ou ceux susceptibles d'être ainsi 35 acquis.»

Land claims agreements

Aboriginal and treaty rights are guaranteed equally to both sexes

Commitment to participation in constitutional conference

Constitutional conferences

2. Section 35 of the *Constitution Act, 1982* is amended by adding thereto the following subsections:

“(3) For greater certainty, in subsection (1) “treaty rights” includes rights that now exist by way of land claims agreements or may be so acquired.

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.”

3. The said Act is further amended by adding thereto, immediately after section 35 thereof, the following section:

“35.1 The government of Canada and the provincial governments are committed to the principle that, before any amendment is made to Class 24 of section 91 of the *Constitution Act, 1867*, to section 25 of this Act or to this Part,

(a) a constitutional conference that includes in its agenda an item relating to the proposed amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada; and

(b) the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussions on that item.”

4. The said Act is further amended by adding thereto, immediately after section 37 thereof, the following Part:

“PART IV.1

CONSTITUTIONAL CONFERENCES

37.1 (1) In addition to the conference convened in March 1983, at least two constitutional conferences composed of the Prime Minister of Canada and the first ministers of the provinces shall be con-

2. L'article 35 de la *Loi constitutionnelle de 1982* est modifié par adjonction de ce qui suit :

«(3) Il est entendu que sont compris parmi les droits issus de traités, dont il est fait mention au paragraphe (1), les droits existants issus d'accords sur des revendications territoriales ou ceux susceptibles d'être ainsi acquis.

(4) Indépendamment de toute autre disposition de la présente loi, les droits — ancestraux ou issus de traités — visés au paragraphe (1) sont garantis également aux personnes des deux sexes.»

3. La même loi est modifiée par insertion, après l'article 35, de ce qui suit :

«35.1 Les gouvernements fédéral et provinciaux sont liés par l'engagement de principe selon lequel le premier ministre du Canada, avant toute modification de la catégorie 24 de l'article 91 de la *Loi constitutionnelle de 1867*, de l'article 25 de la présente loi ou de la présente partie :

a) convoquera une conférence constitutionnelle réunissant les premiers ministres provinciaux et lui-même et comportant à son ordre du jour la question du projet de modification;

b) invitera les représentants des peuples autochtones du Canada à participer aux travaux relatifs à cette question.»

4. La même loi est modifiée par insertion, après l'article 37, de ce qui suit :

«PARTIE IV.1

CONFÉRENCES
CONSTITUTIONNELLES

37.1 (1) En sus de la conférence convoquée en mars 1983, le premier ministre du Canada convoque au moins deux conférences constitutionnelles réunissant les premiers ministres provinciaux et lui-même,

Accords sur des revendications territoriales

Égalité de garantie des droits pour les deux sexes

Engagement relatif à la participation à une conférence constitutionnelle

Conférences constitutionnelles

Participation of
aboriginal
peoples

Participation of
territories

Subsection
35(1) not
affected

Repeal of Part
IV 1 and this
section

References

Citation

vened by the Prime Minister of Canada, the first within three years after April 17, 1982 and the second within five years after that date.

(2) Each conference convened under subsection (1) shall have included in its agenda constitutional matters that directly affect the aboriginal peoples of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on those matters.

(3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of a conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.

(4) Nothing in this section shall be construed so as to derogate from subsection 35(1)."

5. The said Act is further amended by adding thereto, immediately after section 54 thereof, the following section:

"54.1 Part IV.1 and this section are repealed on April 18, 1987.

6. The said Act is further amended by adding thereto the following section:

"61. A reference to the *Constitution Acts, 1867 to 1982* shall be deemed to include a reference to the *Constitution Amendment Proclamation, 1983*."

7. This Proclamation may be cited as the *Constitution Amendment Proclamation, 1983*.

la première dans les trois ans et la seconde dans les cinq ans suivant le 17 avril 1982.

(2) Sont placées à l'ordre du jour de chacune des conférences visées au paragraphe (1) les questions constitutionnelles qui intéressent directement les peuples autochtones du Canada. Le premier ministre du Canada invite leurs représentants à participer aux travaux relatifs à ces questions.

(3) Le premier ministre du Canada invite des représentants élus des gouvernements du territoire du Yukon et des territoires du Nord-Ouest à participer aux travaux relatifs à toute question placée à l'ordre du jour des conférences visées au paragraphe (1) et qui, selon lui, intéresse directement le territoire du Yukon et les territoires du Nord-Ouest.

(4) Le présent article n'a pas pour effet de déroger au paragraphe 35(1)."

5. La même loi est modifiée par insertion, après l'article 54, de ce qui suit :

"54.1 La partie IV.1 et le présent article sont abrogés le 18 avril 1987."

6. La même loi est modifiée par adjonction de ce qui suit :

"61. Toute mention des *Lois constitutionnelles de 1867 à 1982* est réputée constituer également une mention de la *Proclamation de 1983 modifiant la Constitution*."

7. Titre de la présente proclamation : *Proclamation de 1983 modifiant la Constitution*.

Participation
des peuples
autochtones

Participation
des territoires

Non-dérogation
au paragraphe
35(1)

Abrogation de
la partie IV 1 et
du présent
article

Mentions

Titre

FIRST MINISTERS' CONFERENCE
ON
ABORIGINAL CONSTITUTIONAL MATTERS
CONFÉRENCE DES PREMIERS MINISTRES
SUR LES QUESTIONS
CONSTITUTIONNELLES INTÉRESSANT LES AUTOCHTONES

Ottawa

March 15-16, 1983

les 15 et 16 mars 1983

List of First Ministers, Ministers and Spokespersons/
Liste des Premiers ministres, ministres et porte-parole

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